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ABSTRACT

The Subcommittee on Commerce, Consumer Protection and Competitiveness of the House Committee on Energy and Commerce met on three occasions to hear testimony on intercollegiate sports and in particular on proposed legislation to regulate college sports, to assure due process in investigations of the National Collegiate Athletic Association (NCAA), and other issues such as college sports at historically black colleges and universities, and treatment of women's athletics. All three hearings were held in Washington, D.C. The first hearing included witnesses Creed Black. President of the Knight Foundation Commission on Intercollegiate Athletics, David P. Roselle of the University of Delaware, head coaches from universities in Nevada and Louisiana, a writer and sports investigator Dan Yaeger, and various legislators. This hearing touched on broad issues of abuse within college athletics and the regulation of athletics. The second hearing concerned academics and athletics, particularly with regard to how well or poorly institutions served the students they recruited to play athletics. Witnesses included university administrators, a spokesman for Senator Terry Sanford of North Carolina, Mississippi Senator Thad Cochran, the chairman of the NCAA Presidents Commission, head coaches from state universities, and officials of the Knight Commission and the Center for the Study of Sport in Society. The final hearing addressed issues of the historically black colleges and universities and their participation or lack of participation in the national sports scene as it is broadcast on television. Witnesses included officials from the NCAA, coaches, university executives, Education Department researchers, Renaissance Foundation executives and others. Included are the prepared statements of the witnesses and supporting statements and documents. (JB)

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INTERCOLLEGIATE SPORTS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND
COMPETITIVENESS

OF THE

COMMITTEE ON
ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

JUNE 19, 1991—OVERVIEW
JULY 25, 1991—ACADEMICS AND ATHLETICS
SEPTEMBER 12, 1991—HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Serial No. 102-70

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INTERCOLLEGIATE SPORTS

Overview

WEDNESDAY, JUNE 19, 1991

House of Representatives, Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2226, Rayburn House Office Building, Hon. Cardiss Collins (chairwoman) presiding.

Mrs. Collins. Good morning.

This hearing of the Subcommittee on Commerce, Consumer Protection, and Competitiveness will come to order.

Nearly every observer of collegiate sports has found a system that is rapidly getting out of control. What began as a high-spirited complement to college academics has now become an increasingly dominating force at universities. College sports have become big business.

The victims of this transformation are inevitably the students. Athletic seasons are stretched, corners are cut, and academics take a back seat to the drive for championship. Even when sanctions are applied for bad conduct, the victims are once again innocent students.

The saddest victims, in particular, come from the poorest neighborhoods in our country. Lured by dreams of being the next Michael Jordan, many leave their university after 4 or 5 years, unemployed, without even a decent education.

That is really one of the most important issues. Do college athletics provide an avenue for many poor children to get a decent education at a good university, or do college athletics merely exploit the athlete? Why is it we hear stories about graduates who can't read? How do we protect the student from this exploitation? Future hearings will explore this.

The reason for this state of affairs is obvious to all: Money. There have always been alumni booster groups, who put pressures on schools to win. But in the 1980's and 1990's, commercial revenues from college sports placed enormous new pressures upon schools to win.

This is the kind of pressure that results in recruiting violations and abuses; the abandonment of academic integrity and the railroading of poor innercity youths through the institution, often leaving them uneducated and few with marketable skills.

It is, indeed, ironic that the large sports contracts of recent years have not really benefited collegiate sports programs or academic programs. Rather, it appears that they have led to a host of new problems in college athletic programs.

I want to comment two of my colleagues on the subcommittee, Ed Towns of New York, and Tom McMillen of Maryland, for taking the lead on this issue. Tom who served as member of the Knight Commission on College Athletics, has been drafting comprehensive legislation, and attempting to establish a healthier balance between sports and academics. Ed Towns has introduced a bill to provide for due process in NCAA investigations.

This subcommittee will be reviewing these proposals, as well as broader issues of college athletics. One of the issues we will be focusing on today is the issue of due process.

Other issues will include the allocation of sports revenues and the treatment of women's athletics, as I said earlier, preserving academic integrity of the student athlete. After we had had an opportunity to hear some of the problems and proposals, I look forward to hearing from the NCAA with their views.

As the Knight Commission recently concluded, it is time for the university presidents to retake control of their schools. We in Congress stand ready to help that happen.

Mr. McMillan.

Mr. McMillan. I would like to yield to Mr. Lent, the ranking Republican on the full committee, for his statement.

Mr. Lent. I want to thank the gentleman from North Carolina and the chairlady for allowing me to go on at this time. There are two other hearings at other subcommittees I must be present at. I appreciate the opportunity to make a brief opening statement.

As I sit here, I am overwhelmed by a sense of deja vu. Thirteen years ago as the principal initiative of the then Congressman from Nevada, Jim Santini, the Subcommittee on Oversight and Investigation on our subcommittee, conducted the extended hearings into the alleged inefficiencies in the NCAA program for enforcing its rules.

I see UNLV head basketball coach Jerry Tarkanian is one of your witnesses today. He was one of the principal figures involved in the 1978 hearings.

At that time the Oversight Subcommittee reviewed with some care the various aspects of the NCAA enforcement procedures, and after weeks of deliberations came up with a series of modest recommendations for change, virtually all of which the NCAA adopted at or before its next annual convention.

It may give us some perspective today if I read to you a portion of the minority report from the 1978 hearings which I authored as the ranking minority member of the subcommittee: "We believe that those administering the NCAA enforcement program have been and are now and will continue to be fair-minded persons, who make every effort to deal with those with whom they come into contact in a fair way. We also note that the subcommittee majority report does not find the NCAA enforcement program is corrupt, does not find wrongdoing on the part of those administering it and goes to some effort to point out that it is not challenging the integrity of the members of the NCAA Council nor the Committee on Infractions.

"With these thoughts in mind, especially the thought that we are dealing with persons of exceptionally high integrity and outstanding reputations for fairness, we advance or concur in certain recommendations that we believe will enhance the perception of fairness. Even without these changes, however, we still believe the NCAA enforcement procedure is intrinsically fair and evenhanded."

That is a quote from our report of 13 years ago.

Madam Chairwoman, it is my understanding that the NCAA enforcement procedures have since 1978, been amended to provide even greater due process protection for institutions and others potentially affected by the enforcement process.

Under these circumstances, I cannot help but believe that as in 1978, although you may hear claims of procedural unfairness, they are in reality claims based on a dislike for the sanctions imposed on a particular institution.

This is not the appropriate forum to engage in that kind of debate. In my opinion and in my view, this matter is best left to those who run our Nation's educational institutions, not the U.S. Congress.

I thank you for this opportunity to appear here today and participate, albeit briefly, in those hearings.

Mrs. COLLINS. Mr. McMillan?

Mr. McMILLAN. Thank you.

I look forward to our witnesses' testimony this morning. I am pleased we will be hearing from Creed Black, President of the Knight Foundation, Commission on Intercollegiate Athletics. This Commission is based in my home town of Charlotte, NC.

I applaud them for their extensive report addressing the problems facing collegiate athletics. Bill Friday, former president of my alma mater, the University of North Carolina, is the co-chairman of the Knight Commission. I believe their report serves as an excellent reference for reform to guide the NCAA's Presidents Commission and the NCAA in their efforts at continuing self-regulation.

Unfortunately, this report indicates this problem is not limited to a few schools. More than half the Division IA schools were censored, sanctioned or put on probation by the NCAA during the 1980's. As the Knight Commission wisely notes, if the university is not a model for ethical behavior, why should we expect such behavior from students, or from larger society, or from the government itself, I might add.

The academic statistics are more discomforting. The graduation rate of the Division IA school student athletes is barely half of their class.

I am proud of my two schools, the University of North Carolina at Chapel Hill, and the University of Virginia, which have among the highest student athlete graduation rates, and there are many others that could be complimented on that score. From the list of our witnesses, it appears that we will have the opportunity to address the issue of, "due process," as it relates to NCAA procedures.

While due process is certainly an important right of every individual and institution as it relates to Federal and State law, I hope that we will also look to the pressures on coaches and institutions and students that lead to sanctionable behavior and learn from the Knight Report how we might eliminate a lot of inappropriate behavior that exists in our collegiate athletic environments.

I would hope we put the student back into the term "student athlete" and look to curb the distortions in our institutions of higher learning. The NCAA is first and foremost a preventive institution with self-regulatory procedures to assure voluntary compliance with its rules which its members voluntarily enter into and set.

I hope these hearings will help to shed light on ways in which the NCAA can continue to maintain its integrity as a self-regulatory body.

Thank you, Madam Chairwoman.

Mrs. **Collins**. Mr. Tom McMillen.

Mr. **McMillen**. Thank you.

As is the policy of the committee, I will submit a statement for the record.

I would just like to make one small correction to your statement. That is that I have introduced legislation with regards to collegiate athletics. I have not done so at this time.

I am looking forward to the testimony and some of the feedback from those hearings so that I can properly evaluate the kind of course, if any, Congress should take with this issue.

I served on the Knight Commission for its duration, and I want to commend Creed Black and the Knight Commission for their good work. I have some concerns about self-regulation, whether the NCAA can move forward towards a new model, a model that the Knight Commission recommends.

I think these hearings on due process today are one part of that. No one is an apologist for any university breaking serious rules. We want to assure the process is fair and evenhanded.

I thank the chairwoman.

[The opening statement of Mr. McMillen follows:]

Opening Statement of Hon. C. Thomas McMillen

Madam Chairwoman, this month, millions of young people will graduate from college, but many will not. Thousands of young people have mortgaged their education on the hope of playing professional sports. During their years in school they've spent more time pouring over playbooks than textbooks.

I've come from this world, and know of the demands on student athletes. These demands have only increased in the last few years, as schools and conferences now compete against each other for the literally hundreds of millions of dollars available from massive broadcast contracts. The 7-year, $1 billion contract with CBS and the NCAA for its basketball games is only the latest in a series of signals that college sports is more interested in gobbling up revenues, and has lost sight of the welfare student athlete.

This was made clear by an exhaustive study by the Knight Commission on Intercollegiate Athletics, on which I served. College sports is in serious need of reform and the NCAA has not demonstrated the willingness to restructure the model of intercollegiate athletics.

One of the areas begging for reform is the process by which the NCAA enforces its own rules. I will not belabor this specific problem in the enforcement process because there are others here more qualified to do so. However, I will make it clear that I believe this is quite appropriate for Congress and individual State legislatures to be taking action in this area.

The penalties that the NCAA levies on schools are often severe and have collateral effects on institutions. There are intangible and indirect penalties that result from NCAA investigations. Colleges and universities may have world-renowned physics or math programs—but, what the public remembers is that the NCAA labeled them with a athletic scandal. Let me clearly state that I fully support appropriate penalties against those who violate NCAA rules, but only if these schools, coaches, and athletes are afforded their full due process rights.

The NCAA will argue that due process requirements are intrusive and unnecessary. Intrusive: yes, constitutional guarantees of basic rights are often intrusive and are meant to be. They are designed to be a check on the steamroller of prosecutions of innocent victims. Unnecessary: absolutely not—Representative Ed Towns' bill providing due process rights is vital to giving accused individuals and institutions the same basic right of anyone accused of wrong-doing in this society, whether it's in an administrative hearing or a court of law.

This is not the only area of reform that needs a thorough, independent investigation. Madam Chairwoman, I am grateful that you have called these hearings and hope we have future hearings on this topic. In addition, I would like to thank you for requesting the General Accounting Office to launch an investigation in the finances of college sports. The GAO will examine such issues as the total dollar amount involved in college sports and where the money goes. The GAO will also try to assess the level of compliance with Title IX—the requirements related to women's athletics—and will try to compile data on minority hiring in athletic departments.

Some will say that government should not be involved in college sports. However, it should be noted that government has always been involved. In 1905, when President Teddy Roosevelt threatened to completely ban college football unless some reforms were initiated. In 1972, when Congress passed Title IX, requiring equal spending on men's and women's sports. We are not only concerned with the welfare of the student athlete, indeed the integrity of our higher education is under fire. A Harris Poll in 1990 showed that 8 out of 10 Americans believe that college sports scandals have made it difficult for colleges and universities to teach ethics and integrity at their institutions.

The Federal Government invests billions of dollars every year in our Nations system of higher education through grants, loans, and subsidies. In order to maintain proper oversight of this Nation's education system and to spell out our priorities for our students, we need to ensure that our higher education system does not continue to be tarnished by scandal after scandal in college sports.

Mrs. COLLINS. Mr. Oxley.

Mr. OXLEY. Thank you.

To determine how important sports are in our society, one need only ask people what section of the newspaper they read first each day. We are here today to look at the one segment of sports in America, and that is intercollegiate athletics.

When a subcommittee holds a hearing on who controls collegiate athletics, which is the subject for today's hearing, one would think the presumption is collegiate athletics are out of control. Despite the fact that for well over a decade some of my colleagues have had serious questions about college sports programs and who controls them, I am not convinced that the problems warrant congressional intervention.

Questions do exist regarding the NCAA's enforcement programs, the allocation of NCAA funds and, most importantly, the best way to ensure that collegiate athletics get an education.

Earlier this year the Knight Foundation Commission on College Athletics issued a report recommending a variety of reforms. To quote that report: "The real problem is not curbing particular abuses, it is a more central need to have academic administrators define the terms under which athletics will be conducted in the university's name. The basic concern is not nationally uniform standards. It is a more fundamental issue of grounding the regulatory process in the primacy of academic values." The report goes on to say, "If we can get that right, everything else will fall into place. If we cannot, the rest of it will be all wrong."

We all know the system is not perfect. I am encouraged by the efforts being made by the NCAA to pursue some of the Knight Commission's proposals. More reforms may be necessary to assure our college athletic programs play a proper role in the education of our student athletes. However, these reforms will not be easy given the high financial stakes involved in what has become big business in America.

Our goal today should not be to sensationalize the issue of college athletics, but to determine what changes need to be made in the programs and who is in the best position to make those changes. I look forward to the testimony of today's witnesses as well as those who will testify in future hearings.

I yield back the balance of my time.

Mrs. **Collins**. Mr. Barton.

Mr. **Barton**. Thank you, Madam Chairwoman. I, too, will submit a statement for the record.

I might just add I think it is appropriate that we have this oversight hearing. I am not a member who automatically thinks the Federal Government should get too involved in this issue, but I think it is appropriate we should have the hearings so the American people know what the facts are.

Mrs. **Collins**. Thank you.

Mr. Towns.

Mr. **Towns**. Thank you, Madam Chairwoman.

I would like to ask special permission to submit my statement for the record, but I would like to make a couple of comments.

I think this hearing today is extremely important. I think it is very timely.

I know some people are saying the Government should not be involved in terms of athletics, in terms of rules and regulations or even talk about the NCAA. But I must admit that I am disturbed over the fact that a very simple bill called the "Student Athlete's Right to Know," which basically said pass out information so people will know in terms of the record of your university when it comes to graduating athletes.

The amount of lobbying that went on by the NCAA, the amount of money that was spent in terms of trying to defeat that very simple bill, if airlines are required to post their departure and arrival time on a quarterly basis, I mean why can't a university on an annual basis at least list their graduating rate?

When that occurred, Madam Chairperson, I became extremely curious as to what it is and why is it that this information should not be made available.

I am happy that you have made the decision to look even a little further. Maybe we need to pick up the rug and look under the rug to see in terms of what is really going on.

I would like to applaud you for moving forward with this hearing today because we are talking about the lives of young people, we are talking about things that are going on that should be corrected. I think that is very, very important.

Thank you very much for allowing me the opportunity to participate.

[The opening statement of Mr. Towns follows:]

OPENING STATEMENT OF HON. EDOLPHUS TOWNS

Today we are here to address the question of who's in control of intercollegiate athletics? This is a timely question. It has always been assumed that the NCAA was at the helm administering to the needs of its members. However, there are numerous allegations to the effect that the NCAA is often guilty of functioning with virtual impunity when it relates to the rights of its members. It almost appears that the NCAA has become the bully of college sports, as opposed to the paternal influence that many perceive it to be.

The times have changed since the original inception of this organization, thus its mission and methods have changed to accommodate a markedly different environment for not only institutions, but also coaches and student athletes. Those of us here today want to be enlightened about the methods used by the NCAA, the rationale employed, and an explanation about the prospects for proactive change in the way the institution conducts its affairs.

As a former student athlete I am intimately familiar with sports on the high school and collegiate levels. As a Member of Congress I have sponsored legislation which requires that basic consumer education information about graduation rates by universities be provided to prospective student athletes at the time they sign national letters of intent. That legislation which was introduced as H.R. 1454 and known as "The Student Athlete Right to Know" was passed into Public Law.

I recently introduced H.R. 2157 "The Coaches and Athlete's Bill of Rights," which requires that the NCAA develop and implement due process procedures for its member institutions. It is unconscionable that institutions and individuals accused of NCAA rules infractions are not presently afforded a mechanism to respond to its accusers. This bill is not the type of legislation that the NCAA is glad to hear about. Heretofore, they have been able to conduct their affairs in secret, without any regard to whether the punishment fit the crime, or for that matter determining whether any alleged infractions were proven to be valid.

I am pleased that today's hearing will shed some light on how intercollegiate sports activities are administered to. It is important that athletes, coaches and institutions know what is expected of them. It is equally important that those parties know what can be expected from the institution which is supposed to serve their vital interests. Presently there has been a flurry of sports legislation. This is a clear indication that there are many individuals interested in how the affairs of sports are being handled, while proposing remedies to entrenched problems. I am particularly glad that my esteemed colleague, Chairwoman Collins has undertaken the herculean task of looking at this very thorny issue. Hopefully, many of our questions will be answered, and concrete proposals for reform will be forthcoming.

Mr. McMillen. Would the gentleman yield?

I want to commend the gentleman from New York and also our Chair for their leadership in these areas.

A lot of people criticize Congress for looking into these matters. We spend billions of dollars in higher education every year in this country. Certainly it is within the purview of this committee to make sure that that investment is not compromised in any way, shape or form.

You can make a strong case that it is being done so by what is going on our college campuses and the athletic departments.

I thank the gentleman for his leadership.

Mr. McMillan. Madam Chairwoman, I have a unanimous consent request that the statement of the gentleman from Florida, Mr. Bilirakis, be made part of the record.

Mrs. Collins. Without objection, so ordered.

[Statements of Messrs. Michael Bilirakis and James Bilbray were received for the record.]

STATEMENT OF HON. MICHAEL BILIRAKIS

Madam Chairwoman, I want to thank you for holding this hearing on such a topical issue of great interest to many individuals in our Nation. I understand that this is the first of several planned hearings on intercollegiate athletics, and I commend your willingness to undertake such an in-depth examination of what many feel may be a "good thing gone wrong."

As you know, a 1989 Harris poll found that an overwhelming majority of Americans felt that intercollegiate sports were out of control. I suspect that opinion hasn't changed all that much, considering that multi-million dollar revenues remain at stake as universities and colleges across our country squabble over lucrative television contracts, schedules and top players.

I know that I have questions in my own mind as to whether the best interests of our Nation's young people have been lost in this process—one that, at least at first blush, seems to have become fixated on everything but providing a good education.

I certainly hope that today's hearing and any related ones to follow will allow us to see this picture clearly, to hear testimony on all sides and on all facets of college athletics.

In that regard, I look forward to the testimony today of all of the witnesses. However, I feel I would be remiss in not mentioning that I am confused as to why the National Collegiate Athletic Association itself is not represented on one or more of today's panels. After all, the NCAA is the focus of these hearings. Were they not invited to appear before this subcommittee?

If not, I certainly hope this organization will be represented in future hearings as I know I—and I am sure other members of this subcommittee—have a number of questions for NCAA officials. As this is the first of our examinations of this issue, I feel the NCAA should have been afforded the opportunity to be here from the beginning, as it were.

Not to be given the opportunity to reply to what I see in the testimony of today's witnesses are a number of criticisms seems unfair.

The reservation aside, Madam Chairwoman, I again commend and thank you for convening this hearing and look forward to the testimony of our witnesses.

Thank you.

STATEMENT OF HON. JAMES H. BILBRAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

I first want to thank the Honorable Chairwoman Collins for allowing me to submit a statement for the record in regards to these hearings today.

As a lifelong citizen of Las Vegas and former University of Nevada, Las Vegas student-body President, I have watched with profound amazement the National Collegiate Athletic Association's (NCAA) handling of allegations posed against UNLV for the past 17 years. As a former practicing attorney and judge, I was shocked to learn of the lack of respect NCAA investigators displayed towards the rights of those they were investigating. It seemed logical to believe that the NCAA would handle their investigations with the integrity and equity afforded any person under investigation by a governmental body. It would seem an organization with the noble intentions of higher education would find no problem with following the guidelines set out in the Bill of Rights.

With increasing outcries from other universities across the country, the NCAA can no longer claim my belief and others from Las Vegas are biased. The fact that only those schools which have been sanctioned know the injustices involved and are therefore the only ones that cry foul has kept this issue from reaching recognition. However, now that over half of all Division I universities have been sanctioned, there is an increasing awareness of the problems built into the NCAA enforcement procedures. These problems amount to a complete lack of due process for the players, coaches and universities involved in an NCAA investigation. The NCAA should have no disagreement with allowing simple due process procedures in their investigations, such as tape recorded interviews, the right to cross examine witnesses, establishing standards of evidence, and fair and equitable sanctions. To establish due process as standard operating procedure within the NCAA, I have cosponsored Congressman Towns' bill, H.R. 2157, which would provide due process rights to players, coaches and institutions under NCAA investigation.

The NCAA should not be able to investigate, prosecute, convict and penalize without conforming to fundamental due process procedures, especially when many of those under the microscope are State and federally funded institutions, and even more so when their actions can destroy the image and livelihood of students, coaches and institutions of higher learning.

Mrs. COLLINS. Our first panel we are going to bring forward will be Mr. Creed Black of the Knight Foundation and Mr. David R. Roselle, who is the president of the University of Delaware. Won't you come forward, please.

This subcommittee works under the 5-minute rule of the House. That means each person giving testimony will be allowed to give 5 minutes to give a summary of testimony with the full knowledge that the written testimony will be made a part of the record.

You may begin now please, Mr. Black.

STATEMENTS OF CREED C. BLACK, PRESIDENT, KNIGHT FOUNDATION; AND DAVID P. ROSELLE, PRESIDENT, UNIVERSITY OF DELAWARE

Mr. BLACK. Thank you, Madam Chairwoman, for the invitation to participate in your committee's hearing today on a scandalous national problem.

I appear today as president of the Knight Foundation and as an ex officio member of the Knight Foundation Commission on College Athletics. It was exactly 3 months ago today that we released our report that you have referred to repeatedly this morning. We are tremendously encouraged by the response it received.

I appreciate the good things you have had to say about it. Let me note, as you already have, with a note of appreciation the service of one of your members, Tom McMillen, on this Commission. I might also note another member of the Commission serving in his capacity as President of the University of Tennessee, was the new Secretary of Education, Lamar Alexander.

Your staff asked me to address two questions this morning: First, why the Knight Foundation established such a commission; and second, who is in control of college athletics. I will try to answer those, and a third: Who ought to be in charge?

First, why did we wade into this swamp? It was not, let me assure you, out of any hostility toward college athletics. It was because of our concern for higher education.

What we hoped to do with this Commission was strengthen the hands of those who want to curb the abuses which is shaking public confidence in the integrity of college athletics, but the whole institution of higher education. We have no hidden agenda, no actions to find.

What we made was the first independent study of this problem since the Carnegie Fund did a similar study in 1929. You members of the committee described the problem well.

I think the question we raised and considered is what is the public to think when it sees these daily headlines about scandals in the institutions of higher education. One answer to that came about the time we were considering this commission from a Lou Harris Survey which showed 8 of 10 Americans in one of his polls, agreed college sports were out of control, athletic programs were being corrupted by big money and in many cases the rules violations undermined the traditional role as universities as places where young people learn ethics and integrity. That is why we get into it.

The second question, who is in control? The short answer to that in a Knight Commission report was the sad truth on too many campuses, big time revenue sports are out of control. A slightly longer answer is controls have become confused and diluted among presidents, trustees, independent athletic foundations, booster clubs, the College Football Association, the NCAA, television station networks and even shoe companies. Well, who ought to be in charge?

The answer I report to that is this. If the commission's bedrock commission is the university presidents are the key to successful reform, they must be in charge and be understood to be in charge on campuses, in conferences and in the decisionmaking council of the NCAA. At this point you may have a question of your own.

If the presidents haven't cleaned up the mess in all this time, what makes us think they can do it now. Because the winds of change in this are blowing and blowing strongly.

Before the Knight Foundation decided to spend $2 million on this commission, I talked to a lot of knowledgeable people to find out whether we should make such an investment. We were told if we had asked that question 2 or 3 years before, the answer would have been no. At this point I was told there were so many influences converging to effect reform that it would be a good investment. We are seeing encouraging signs of that.

The NCAA is under courageous and enlightened new leadership. The NCAA President's Commission is emerging as a decisive force in that organization.

A record number of presidents attended the NCAA convention in Nashville this year and overwhelmingly approved an agenda of cost cutting proposals. Next year they will tackle higher education standards. The NCAA is testing a certification program tied to academic and financial standards. Meanwhile, some conferences are mapping their own reform plans.

The Southern Association of Schools and Colleges is considering a proposal to deny accreditation to institutions whose athletic programs fail to meet certain guidelines. On individual campuses which in the final analysis is where reform must really begin, both trustees and faculties are reexamining their responsibilities for the integrity of their athletic programs.

Lou Harris did a survey for us near the end of our work to test the reactions of key groups to our reform proposal. There is a window open now he reported which may not be open very long.

If the presidents move now, it is possible for maybe the first and last time in our lives that reform can take place. My sense is the presidents are moving in forcefully and effectively.

They need all the support they can get. For that reason the Knight Commission will stay in business for at least an additional year to work for implementation of its recommendation.

I hope the Members of Congress add their encouragement to this reform movement and give higher education an opportunity to fulfill its own responsibility in the climate of change which now prevails.

Thank you.

[The prepared statement of Mr. Black follows:]

STATEMENT OF CREED C. BLACK, PRESIDENT, KNIGHT FOUNDATION

Thank you, Madam Chairwoman, for the invitation to participate in your committee's hearings on a scandalous national problem.

I appear today as president of Knight Foundation and as an ex-officio member of its Foundation Commission on Intercollegiate Athletics. It was exactly 3 months ago today that here in Washington this commission, after more than a year of intensive work, released a report proposing a new model for intercollegiate athletics. We have been tremendously encouraged by the response to that report, and I welcome the opportunity to discuss it with you.

Before doing so, let me note that one of the members of the House, Tom McMillen, served on the Knight Commission and earned our gratitude for his helpful participation. Another member, serving in his capacity as president of the University of Tennessee, was the new Secretary of Education Lamar Alexander.

Your staff has asked me to address two questions: (1) Why did Knight Foundation establish such a commission and (2) who is in control of college athletics?

I'll try to answer those two and add a third: Who should be in control?

First, why did we wade into this swamp?

It was not, let me assure you, out of any hostility toward college athletics. On the contrary, our late chairman, James L. Knight, said at the outset that "we have a lot of sports fans on our board, and we fully recognize that intercollegiate athletics have a legitimate and proper role to play in college and university life. Our interest is not to abolish that role but to preserve it by putting it back in perspective. We hope this commission can strengthen the hands of those who want to curb the abuses which are shaking public confidence in the integrity of not just big-time intercollegiate athletics but the whole institution of higher education."

We saw that as a worthy goal for a foundation which has a major program interest in the field of higher education.

We were convinced, furthermore, that the problem was systemic, not just a matter of a few bad apples. In the decade of the 1980's, for example, 109 colleges and universities were censured, sanctioned or put on probation by the NCAA. That included more than half the Division I-A schools—57 of 106.

Those schools, of course are a minority of all those engaged in intercollegiate athletics. But they are among the most visible of our higher education institutions, and their sports programs are their most visible activity.

So what's the public to think with daily headlines of new scandals in college athletics? Let me share with you an answer to that question I received from a distinguished University of Kentucky faculty member after the newspaper of which I was then publisher ran a series exposing major abuses in the basketball program there, which in Kentucky has been elevated to the status of a religion:

"If the institutions and their supporters are prepared to wink at—if not also to participate in—cheating against the rules by athletes," he wrote me, "can the schools stand against cheating anywhere else?"

"Is it OK for students to cheat in class. Does anybody want to be represented by a lawyer who cheated to get through law school—or to be operated on by a surgeon who had to cheat to pass the med school exams?"

"Can colleges and universities continue their traditional posture of upholding the highest values of personal character and integrity when they themselves display so little of either?"

Against such a backdrop, it is small wonder that 8 out of 10 Americans questioned in a Louis Harris poll in 1989 agreed that intercollegiate sports were out of control, that the athletics programs were being corrupted by big money, and that the many cases of rules violations had undermined the traditional role of universities as places where young people learn ethics and integrity.

So, to address your second question, who's in control of this mess?

The short answer you'll find in the Knight Commission report is this: "The sad truth is that on too many campuses big-time revenue sports are out of control."

A slightly longer answer is that control has become widely diffused and diluted among presidents, trustees, athletics directors, power coaches, independent athletics foundations, booster clubs, regional conferences, the College Football Association, the NCAA, television stations and networks and even shoe companies.

The patterns of abuse that grow out of this crazy-quilt arrangement, our report concludes, "are grounded in institutional indifference, presidential neglect, and the growing commercialization of sport combined with the urge to win at all costs."

Well, then, who ought to be in charge? Here's the answer in our report to that:

"The Commission's bedrock conviction is that university presidents are the key to successful reform. They must be in charge—and be understood to be in charge—on campuses, in conferences and in the decision making councils of the NCAA.

"We propose what we call the 'one-plus-three' model, a new structure of reform in which the 'one'—presidential control—is directed toward the 'three'—academic integrity, financial integrity and independent certification.

At this point you perhaps have a question of your own: If the presidents haven't cleaned up the mess in all this time, why should we think they can do it now?

Because the winds of change are blowing—strongly.

Before Knight Foundation made its decision to establish this commission, I asked a lot of knowledgeable people if there was any point in our investing a couple of million dollars in such an undertaking. I was struck by how many of them told me they would have answered in the negative 2 or 3 years earlier but they now believed that genuine reform was an idea whose time had come.

We are seeing encouraging signs of that:

—The NCAA is under courageous and enlightened new leadership.

—The NCAA Presidents Commission is emerging as a decisive force in that organization.

—A record number of presidents attended the NCAA convention in Nashville this year and overwhelmingly approved an agenda of cost-cutting proposals; next year they will address higher academic standards.

—The NCAA is testing a certification program tied to both academic and financial standards.

—Meanwhile, some conferences are mapping their own reform plans.

—The Southern Association of schools and Colleges is considering a proposal to deny accreditation to institutions whose athletics programs fail to meet certain guidelines.

—And on individual campuses—where reform must really begin—both trustees and faculties are re-examining their responsibilities for the integrity of their athletics programs.

Louis Harris did a survey for us early this year to test the reaction of some key groups to our reform proposals. "There is a window open now," he reported, which may not be open very long. If the presidents move in now, it is possible for the first and maybe last time in our lives that reform can take place."

My sense is that the presidents are moving in—forcefully and effectively. They need all the support they can get, and for that reason the Knight commission will stay in business for at least an additional year to work for implementation of its recommendations.

I hope the Members of Congress will add their encouragement to this reform movement and give higher education an opportunity to fulfill it's own responsibility in the climate of change which now prevails.

Mrs. COLLINS. Mr. Roselle

STATEMENT OF DAVID P. ROSELLE

Mr. ROSELLE. My name is David Roselle. I serve as president of the University of Delaware. I am aware the subcommittee will be hearing testimony today from a number of individuals who in the past have publicly criticized the NCAA's enforcement program. Many of these individuals have been directly or indirectly in some way involved in a proceeding. In the latter regard, I am no different.

I was directly and intimately involved as president of an institution, namely, the University of Kentucky, which faced a major NCAA infraction, a proceeding that resulted in very severe penalties against my institution. I may be different, however, in that I found the NCAA enforcement procedures to be understandable. I found the NCAA enforcement staff to be cooperative and responsible and I found the entire process to be fair.

Make no mistake, I also found the process to be personally unpleasant, to be demeaning to a great university and to be inordinately distracting from what is the major mission of the institution, namely, the education of young people. But important, because we were talking about matters of honor and ethics.

You should understand my orientation toward the administration of college athletics and, indeed, the NCAA is possibly quite different from the people who claim that our problem is one of due or perhaps undue process.

I believe the central issue is how we, the universities presidents, view the role of the enforcement process. I view as many others as merely a framework in which each institution polices or monitors its own compliance with the substantive rules by which we have all agreed to abide.

Said differently, my view is that the enforcement process functions just like an honor code. Under most honor systems and individual takes a pledge to abide by a code of academic and personal conduct, and very importantly, they pledge also to report violations of the code, whether they are committed by themselves or by someone else.

I really don't think there is much hope for the integrity of college athletics unless we take that pledge. Because I believe and have believed in such principles, my actions while I served at the University of Kentucky drew a lot of attention.

If you read the report of the NCAA Infractions Committee on the Kentucky case, you will find several references to the very aggressive way in which that institution dealt with the allegations against it.

In essence, we undertook a thorough internal investigation and we reported our findings without limitation and no matter of the consequences to the NCAA enforcement staff. Quite frankly, our internal investigation was so complete that the NCAA enforcement staff, while they were helpful, they really weren't necessary.

We submitted a 1,000-page report to the NCAA detailing several serious violations, including academic fraud. We also succeeded without any adverse legal or economic consequences to the university in obtaining the resignations of several members of the athletics department. All of that was done in the text of the Kentucky State procedures requiring conformity with basic due process, protections for those individuals.

As I noted NCAA penalties assessed against the university were very severe, and they should have been. As noted by the Committee on Infractions, our aggressive actions also served to lesson the penalties which under NCAA's sanctions standards adopted by the NCAA members would normally be assessed. They did that because it was unique the way we handled that particular situation. I thought, frankly, it was kind of sad that it was unique because we did the right thing.

I said earlier that I found the NCAA Committee on Infractions procedures similar to those found in other academic settings. I know lawyers have a lot of trouble with this.

Lawyers like subpoenas, and oaths, and cross examination and rules of evidence, the things that characterize a formal adversarily legal system of punishment or dispute resolution. I remind the subcommittee of two things. One, we the universities have chosen this less formal method as the one most consistent as the procedures at our own institution.

Two, if we, as university presidents, really mean our commitment of compliance and self-reporting, the pledge we have made to one another, the system is not an adversarial system at all. I believe the Knight Commission—and nice things have been said about it today.

As Creed knows, I believe the commission failed adequately to emphasize the most important point of all. That is we have lost sight of many institutions of the fundamental mission of the college athletics program.

Let me quote to you something the football coaches adopted in 1952, they say: "The characteristics of a profession is that its members are dedicated to rendering a service to the community. Personal gain must be a lesser consideration. Those who select football coaching must understand the justification for football is it provides spiritual and physical value for those who play it. The game belongs essentially to the player." It goes on.

The welfare of the game depends upon how the coaches live up to the spirit and the letter of ethical conduct, and how coaches remain ever-mindful of the high trust and confidence placed in them by their players and by the public. Coaches unwilling or unable to comply with the principles in the code of ethics have no place in this profession, the statement says.

I think where we fail is in the evaluation of our coaches. I have a lot of enthusiasm for college athletic coaches. I think we should say three things to our coaches. One is we want them to put the young people at the center of the program.

The academic, the social, the athletic growth of those young people is at issue. Number two, they should operate the programs according to the rules.

Number three, they should operate a competitive program. I think too often when university presidents, people like me, evaluate our coaches, we evaluate them only on wins and losses.

I think a lot of our problem stems from exactly that point.

Thank you very much.

[The prepared statement of Mr. Roselle follows:]

STATEMENT OF DAVID P. ROSELLE, PRESIDENT, UNIVERSITY OF DELAWARE

My name is David P. Roselle. I am the President of the University of Delaware, a position which I have held since last year. I appreciate this opportunity to appear before the subcommittee.

I received my undergraduate education at West Chester University of Pennsylvania and my Ph.D. degree in mathematics from Duke University. I successively taught thereafter at the University of Maryland, Louisiana State University, and Virginia Polytechnic Institute. For 3 years, prior to taking my current position, I was President of the University of Kentucky.

I am aware that the subcommittee will be hearing testimony today from a number of individuals who in the past have publicly criticized the NCAA's enforcement program. Many of those individuals, I understand, have been directly or indirectly in some way involved in an enforcement proceeding.

In that latter regard, I am no different: I was directly, intimately involved as president of the institution in a major NCAA infractions proceeding relating to the University of Kentucky—a proceeding that resulted in very severe penalties against my institution. I may be different, however, in that I found the NCAA enforcement procedures to be understandable and fair, the NCAA enforcement staff cooperative and responsible, and the actual hearing before the Committee on Infractions entirely consistent in method and content with those normally found in academic settings.

Make no mistake, I found the entire process personally unpleasant, demeaning to the great university I had chosen to serve, and inordinately distracting from the education mission I had been charged to fulfill for the citizens of Kentucky. But we were treated fairly, honestly and courteously by all those representing the process.

You should understand that my orientation toward the administration of intercollegiate athletics, and indeed toward the NCAA itself, is possibly quite different from many of those who claim the problem is one of due, or "undue", process in enforcement proceedings. I believe the central issue is how we—the university presidents, the true NCAA constituency—view the role of the enforcement process. I view it, as do many others, as merely the framework within which each institution polices or monitors its own compliance with the substantive rules by which all of us have agreed to abide, and thereby fulfills its commitment of compliance to all its sister institutions.

Said differently, my view is that the enforcement process functions as does an honor code. Under most honor systems, an individual pledges to abide by a code of academic and/or personal conduct, and very importantly, pledges to report violations of the code, whether committed by the individual himself or by another. I believe there is little hope for the integrity of intercollegiate athletics unless our commitment to NCAA rules also includes the commitment to vigorously police ourselves and our peers, and to report any violations to the body we ourselves have put into place to oversee our conduct, and indeed commonly control: the NCAA.

Because I believe, and have believed, in these principles, my actions as President of the University of Kentucky—once I learned of allegations of improprieties in our basketball program—drew considerable attention. If you read the report by the NCAA Infractions Committee on the Kentucky case, you will find several references to the aggressive way in which that institution dealt with those allegations. In essence, we undertook a thorough internal investigation and reported our findings, without limitation and no matter the consequence, to the NCAA enforcement staff.

Quite frankly, our internal investigation was so complete that the NCAA enforcement staff, while helpful, was really unnecessary. The result was a 1,000-page report to the NCAA detailing several serious violations, including at least one involving academic fraud. We also succeeded. without any adverse legal or economic consequences to the University, in obtaining the resignations of several members of the athletics department staff. And all this was done in the text of Kentucky State procedures requiring conformity with basic due process protections by the University.

As I noted, the NCAA penalties assessed against the University were severe, very severe—as indeed they should have been. But as noted by the Committee on Infractions, our aggressive actions also served to lessen the penalties which, under NCAA sanctioning standards adopted by the NCAA members, would normally have been assessed. The committee is authorized to suspend or abate penalties in "unique" cases: although I was pleased this occurred in our case, I guess I am saddened that aggressive institutional self-policing is viewed by the committee as unique. As noted, I think it should be the norm.

At this point, I imagine that some of you are saying to yourselves "Fine, Roselle cleaned up the Kentucky basketball program, but it cost him his job, because now—3 years later—he's at Delaware." Well, you're partially right, but not for the reason you think. More than once, frankly, I made clear to the University trustees during the investigation that I would resign if they did not fully support my efforts; let the record be clear, they did give me that support. I was offered my position at Delaware partially because of the straightforward and honest manner in which the Kentucky investigation was handled and because the University of Delaware desires to maintain its tradition of a broad based athletics program conducted for the benefit of the student body. The University of Delaware is an institution of considerable academic attainment and potential located in an attractive, dynamic portion of our country. The Roselle family is delighted by the recent changes in our lives.

I said earlier that I found the NCAA Committee on Infractions procedures similar to those found in other academic settings. I know that the lawyers have trouble with this: they like subpoenas, and oaths, and cross-examination, and rules of evidence—the things that characterize a formal adversary legal system of punishment or dispute resolution. But I remind the subcommittee of two things: one, we the universities, through the NCAA rules, have chosen this less formal method as the one most consistent with our own procedures; and two, if we as university presidents really mean the commitment of compliance and self-reporting we have made to each other, the system is not really adversary at all, and the trappings of a criminal trial are totally out of place.

I suggest to the subcommittee, quite frankly, that its time will be far better spent in examining the appropriate role of intercollegiate athletics in post secondary education and that any condemnation of the NCAA enforcement program or staff is inappropriate. I understand you have before you copies of the Knight Commission report, and I think we can all applaud its call for renewed presidential authority over intercollegiate athletics programs.

I believe, however, the Commission failed adequately to emphasize the most important point of all: That we have lost sight at many institutions of the fundamental mission of the intercollegiate athletics program. Let me quote to you from the code of ethics adopted by the American Football Coaches Association in 1952:

"The distinguishing characteristic of a profession is that its members are dedicated to rendering a service to humanity. Personal gain must be of lesser consideration. Those who select football coaching must understand the justification for football is that it provides spiritual and physical values for those who play it, and the game belongs, essentially, to the players.

The welfare of the game depends on how the coaches live up to the spirit and letter of ethical conduct and how coaches remain ever mindful of the high trust and confidence placed in them by their players and by the public.

Coaches unwilling or unable to comply with the principles of the Code of Ethics have no place in the profession."

That statement is no less true today, but on many campuses, it receives only lip service at most.

Where we fail, I believe, is in our emphasis—often to the exclusion of all else—on the "won-loss" success of a particular coach or of a program. What we should be saying to coaches is that their job is (1) to operate the programs primarily for the health and educational benefit of the students who participate, (2) to operate the programs in conformity with applicable NCAA, conference and institutional rules, and (3) to field competitive teams—in that order. And when it comes to renewal of a coach's contract, we should ask ourselves how well the coach has fulfilled the totality and priorities of this job description.

If we did that, and if we stuck by those standards in the face of public pressure, is it not just possible that the coaches would get the message and become better able to resist the temptation to cut corners in pursuit of a "winning" program?

I am one of those university presidents who believes that a broad-based, high quality intercollegiate athletics program is good for the institution. At Delaware, a relatively small NCAA Division I institution, we are able to field teams in 23 different sports for men and women. But I believe that at some institutions, the emphasis on winning has served to distort the true value of intercollegiate athletics. I hope these hearings will in the end serve to provide additional support to the NCAA Presidents Commission, and all the NCAA member chief executives, as we work to redefine the role of intercollegiate athletics in the fabric of institutional life.

Mrs. COLLINS. Thank you.

In my opening statement I suggested that the increasing violations of NCAA rules were caused in large part because of the increasing dollars that are at stake. The fact that college sports is big business now.

I would like to know the comments of both of you regarding that remark. Why don't we begin with you, Mr. Black?

Mr. BLACK. That college sports are big business?

Mrs. COLLINS. Yes.

Mr. BLACK. College sports have become big business. You will find in our report we mention that as one of the factors in the environment that surrounds college sports.

Mrs. COLLINS. Let me clarify my question. I said that I thought one of the reasons why we see increasing violations in NCAA rules is because this has become big business.

Mr. BLACK. Well, I think, Madam Chairwoman, that certainly the advent of television and the big dollars involved there have exacerbated the problem. I think it is an oversimplification, however, to blame it on that.

The report, the study we made was the first independent study since 1929, when the Carnegie Fund made one. You know what they found, what they complained about in college athletics? That there were recruiting abuses, that education was being neglected, that professionals were replacing amateurs on the team and that college sports have become too commercialized. The problem is not one that just happened since TV came upon the scene. I think undoubtedly it has worsened the problem.

But I think you have to remember, too, that it is possible to run big-time college athletic programs in the environment of big dollars, and run them without corruption.

I submit Notre Dame is a good example of that, which not only is running a good program, but which recently won the College Football Association award for graduating more of its football players than any other school.

Mrs. Collins. Mr. Roselle.

Mr. Roselle. I think there is a misconception about the nature of the big business of college athletics. It is a big losing business.

About 75 percent of the Division I programs will run in deficit this year. It is a competitive business. I think perhaps that is the problem. It is not the case of university presidents; great universities are losing lots of money on their athletic programs.

Mrs. Collins. To what do you attribute this loss of money?

Mr. Roselle. You spend more than you bring in.

Mrs. Collins. We certainly understand that. It seems to me that every time you——

Mr. Roselle. There has been a lot written about it. But people started chasing the wrong rabbits at one time.

The belief once was that if you showed 17 football games on a weekend instead of one, it would be 17 times as much money to come into the till. That arithmetic doesn't work. Each game is worth a fraction of what one game was. It doesn't work that way.

Mr. Black. I think another problem that emerged in our professions, Madam Chairwoman, is that in too many cases the money that the athletic program brings in is left to the athletic department to spend. As one of the old laws of economics, they are going to spend all they get.

We are recommending all the money that comes into the athletic program goes into the central administration treasury and the athletic department be budgeted the way other departments are. It doesn't make sense for a college football team—this year the presidents, the NCAA under the leadership of the Presidents' Commission cut football scholarships from 95 to 85.

The coaches and athletic directors were screaming. But 85 is still almost as twice as many as the National Football League manages to get by with. You don't need the kind of expenses these athletic departments incur.

Mr. Roselle. Cost containment is a big issue for the Presidents' Council. You can see quite vividly how some cost containment might be affected.

If you take a picture of the coaching staff, you can see there is quite a few of them.

Mrs. Collins. Mr. Black, what did the Knight Commission find out about women's athletic programs? Did they get their fair share of any new revenues?

Mr. Black. We had some testimony on that?

We make a pitch in our report for equity. It was not one of the issues that we devoted ourselves to primarily because we were looking at the abuses, the corruption in college athletics and not in the, at the equity issue. That is somewhat of a different issue.

Mrs. COLLINS. What would you do to recommend something to ensure college athletic programs adhere to Title IX?

Mr. ROSELLE. The NCAA does have a regulation that says expenditures are to mirror participation, men's versus women's sports. Expenditures on the program are to mirror participation. I don't have any exact reading on that. Perhaps others who testify today will. I think most people are a little below that standard, but are gaining.

Mrs. COLLINS. You mentioned you, too, believe the university has a responsibility of educating our young people; that certainly is one of my strongest concerns.

It seems to me in the innercity communities where there are a lot of poor youth, we find they have real hope. Just taking one of the high schools, for example, in Chicago, where you go to a high school and you find young people playing basketball, which is a great sport in our city, as you might expect, they all think this is a way to Heaven, in a way of speaking. That if they can get into college, they will, in fact, perhaps become pros. And then they are going to make millions and millions of dollars anyway.

What are your thoughts about this expectation of our young people; do you believe they are being exploited, as I do?

Mr. ROSELLE. I do, yes, believe that there has been exploitation in college athletics of young people. My thoughts are perhaps not as important.

They are derived from Harry Edwards, who is a sports sociologist at Berkeley, who has written extensively on this problem.

Mrs. COLLINS. I have one final question. We constantly hear about athletes who graduate but who can't read. As a matter of fact, the newspapers all picked up the fact there was a young man by the name of Ross, who in great frustration about 2 or 3 years ago, threw all the furniture out of a hotel room that happened to be in my district. He lived in my district. He was graduated from college. He was a basketball player. He couldn't read.

Before that he had gone to Martha Collins, to her school and sat down with young kids, 7 and 8 years old, in order to try to learn to read. Once he had begun to read, he thought he had credentials that would enable him to find employment. In great frustration, his outrage, he started throwing things out of this hotel room.

Two questions: One, why are young people entering into college who evidently can't pass SAT's?

Second, does a university feel a responsibility for these young people?

Mr. ROSELLE. Well, they are entered into college to play athletics. The NCAA——

Mrs. COLLINS. They are just robots? They are not human beings? They are not students? They are certainly not students if they can't read.

Mr. ROSELLE. Pieces of meat. I think that is sad, very sad. NCAA has been addressing this through Proposition 48, its legislation about minimal requirements. It is a problem that is real, but the problem has been anticipated. The NCAA is moving on that particular issue.

Mrs. Collins. You say you are moving on it. When are you going to have some guidelines or something?

Mr. Roselle. They are out. Proposition 48 has been in place for several years, probably in the range of 5 to 10 years.

Mrs. Collins. Is it being adhered to largely?

Mr. Roselle. Yes, it is.

The performance of the students is going up accordingly. You can argue about whether it is a completely appropriate standard, and a SAT standard. That is a fair argument and a good argument to have.

But the fact that people are trying is no longer in doubt.

Mrs. Collins. Thank you.

Mr. Alex McMillan.

Mr. McMillan. Thank you, Madam Chairwoman.

I would like to note one of the reasons why Chicago has an outstanding pro basketball team is due to a graduate of the University of North Carolina.

Mrs. Collins. I appreciate that. I will give you that.

Mr. McMillan. The problem of reading is not limited to athletes, I am sad to say. We have had a pretty broad range of applicants for jobs on Capitol Hill.

It is discouraging sometimes, the kids that are coming out of universities that can't read or write. But, that is a broader issue and not totally unrelated. There are a lot of great things in college athletics.

I think the University of North Carolina tries to participate pretty well in some sports. The revenues that are generated from profitable sports go to pay for non-scholarship, but very broad athletic programs in minor sports that I think are a very important part of the educational experience.

So I don't think we are knocking college athletics or very assertive college athletics. We are talking about the manner in which it is conducted.

Mr. Black, your testimony concludes that you hope the Members of Congress will add their encouragement to this reform movement and give higher education the responsibility to fulfill its own responsibility in the "climate of change which now prevails," unquote.

Does the Knight Commission advocate congressional or State intervention in this process?

Mr. Black. No, Congressman McMillan, we don't advocate it at all. I think it would be fair to say the sense of the Commission is that it would be certainly a last resort.

I might explain to you that I come to this, and I think I can say something to the committee that I might not be able to say if I didn't have experience on the other side of the Government fence.

I spent 2 years here in Washington as Assistant Secretary of HEW. I can say, and I think you would concede, that Congress doesn't have an unblemished record in problem solving.

In 1969, when I came in, fresh-eyed and hopeful into this job, the first bill introduced on the House, that I recall, H.R. 1, I doubt if any of you were around then, but it was to reform the welfare program. I read today about the current attempt of Congress to reform the welfare program dealing with the same problems that we dealt with then.

I think, as I said in my testimony, that there really is a change. I attended the last two NCAA conventions, one in Dallas and one in Nashville. Even in that year I detected a tremendous change in what is going on in the NCAA.

I think that one of the strengths of our educational system is its diversity. I think that the responsibility starts on the individual campuses. We are trying to propose a preventive medicine, not enforcement medicine.

I believe that if we can maintain that diversity, and not have Federal or State intervention, and let the president of the university solve his problem, they should have the opportunity to do so.

Mr. **McMillan**. We are going through redistricting in the Congress now. Would you describe how representation in the governing body is determined by the participating members?

Mr. **Black**. The fundamental fact by the NCAA is that the NCAA is a creature of its members. Every institution has a vote, and the president has that vote.

The governing body and whatever it is is one that can be determined by the institutions themselves. The NCAA is not some mysterious, omnipotent force out there.

I said in my testimony that there is a Presidents' Council, but I said in my testimony that the Presidents' Commission is emerging as a decisive and influential force. That commission has the power through proposed legislation to order the agenda out there at the convention to call for a roll call vote.

Believe it or not, until 1 or 2 years ago, there wasn't a roll call vote. The NCAA delegates voted with paddles. The president could instruct his delegate to go there and tell him to vote one way, and the president never had a reason to know whether he voted that way or not. Now they have roll call vote.

I also pointed out that the presidents themselves were there in force this year in Nashville. Two thirds of the presidents of Division IA schools were there.

I think that the presidents have learned that they have got the clout and the muscle in the NCAA if they want to use it, and, I believe, they are using it.

Mr. **McMillan**. Mr. Roselle, you drew the analogy of self-enforcement as being like an honor system. I have been in schools that have excellent honor systems. I can think one that probably has the best that I am aware of, or among the best in the country. But there are other schools that may say they have one, but it doesn't function.

It so often is a matter of longstanding tradition, universal acceptance, understanding that makes an honor system work. Would you agree with that analogy a little bit further?

A good honor system does include self-reporting, but it also implies that everyone exists under a common code and it is in everyone's interest to assure that it maintains integrity. Therefore, if someone sees someone else cheating, they are under an obligation to report that cheating.

Mr. **Roselle**. That is correct.

Mr. McMillan, I went to another North Carolina school, Duke University, that had a pretty fair year in athletics, too; I just thought I would point that out.

Mr. **McMillan**. I didn't mean to ignore Duke. I am also a great UNC fan.

Mr. **Roselle**. Honor systems do vary around the country.

What it comes down to is, always down to individuals. I think that is where the presidents are so terribly important. They have to say, look, we have these young people. Not only the young people involved on the basketball team, we have these young people who have been entrusted to us to teach them ethics, honor and all the things that are so very important to what this country stands for. You must demonstrate it in how you administer your athletics program.

It is a crucially important issue. I see the NCAA enforcement staff, their job is just to see that that floats, at an appropriately high level, that people are not hiding from their responsibilities and that they are charged appropriately with their responsibilities.

I think I said in my testimony approximately that the NCAA enforcement staff really should somewhat irrelevant if the presidents were carrying out their charge appropriately. I do believe that.

Mr. **McMillan**. I think your statement that education is a learning process and the manner in which we conduct responsibilities, the ethical environment in which we conduct sports, the ethical environment in which we play the game has everything to do with the ethical standards of this entire country.

It has often been said character is built in athletics; I believe that.

Mr. **Black**. May I add a post-description of what President Roselle said about the presidents?

I think he is a living example of it, and I speak from experience. I was publisher of a newspaper in Lexington, Kentucky, one scandal before the one he was involved in.

Basketball, as some of you know, is a reason in Kentucky. When we ran a series on abuses in the University of Kentucky basketball program, produced a great deal of unhappiness, not with the abuses, but with the paper.

My favorite letter came from a woman who wrote and said, "Dear Sir, may the sprays from a million polecats fall upon your press room and remain there through eternity." That is the kind of environment in which David Roselle operated. He showed great courage. This is one thing that is required of the presidents.

The second thing is that they have the backing of their trustees because in too many places we found out the trustees are part of the problem and not part of the solution.

Mr. **McMillan**. That sounds a little bit like Congress. I think my time has expired. We may have to go vote.

Mrs. **Collins**. We definitely have to go vote. We are going to recess the committee. We have two votes on, one for 15 minutes and one for 5 minutes.

I think we are going to recess for 15 minutes.

Thank you.

[Brief recess.]

Mrs. **Collins**. Mr. Tom McMillen.

Mr. McMillen. Creed, it was good serving with you on the Knight Commission. I want to thank you for the exhaustive work that was done on these issues. You talked about diffusion and dilution in presidential power.

Readily, that is the strongest recommendation to come out of the Knight Commission report that the three plus one, the one, presidential control, is essential, but why did the Knight Commission—as you know I footnoted my concern about this, why did the Knight commission— not deal with a more direct form of governance in setting up the NCAA?

As you know, the Athletic Council is dominated by athletic directors, very, very difficult to get anything passed through the NCAA. The presidents have to mount an enormous campaign just to do something as innocuous as cutting back practice times. How are they ever going to change the money and the big problems in the NCAA?

Mr. Black. Congressman, I think what we tried to do in the Knight Commission, and you know, you were there very conscientiously at all of our meetings, was not to deal in great detail with every problem that exists or might come down the road, but to set up a process or a mechanism for dealing with those problems.

What we are saying, what we have said very simply is that the control has got to start with the president. I mentioned the Carnegie report of 1929, the president of the Carnegie Fund at that time in the introduction to that report says, at this late date it is not going to make much sense to worry about who was responsible for this mess, but who is going to clean it up.

The answer to that very simply is it has got to start with the presidents and with the faculties. They have the responsibility, and they have the authority. When I said they had the authority, only if they get it from the trustee.

I think—I was very impressed by the change I saw—I have attended two NCAA meetings, one in Dallas and one in Nashville this year. I thought there was a change in that time. I think the President's Commission has got authority, and it can use it.

The council, the NCAA Council has a minority of members, presidents, but I am told, and I am not much of an expert on the NCAA, that that is more of an implementation body, less of a policy body than the President's Commission is, but the point is, the one I made earlier, that if the presidents need more control, if they need to gain control of the governing body, and you know in the hearing we heard different suggestions about this.

Digger Phelps wanted to set up a supreme court. If the presidents want to change the control and put nobody but presidents on the President's Council, they can do it.

Mr. McMillen. Let me interject there. Derek Bok proposed this back in the 1980's and it was rejected by the NCAA, presidential control. Anybody who saw it would agree with you. It is diffused diluted.

My concern is that it is not correct enough. Let me turn for a moment, because my time is limited to Mr. Roselle. I presume you are not a lawyer, Mr. Roselle.

Mr. Roselle. That is correct.

Mr. **McMillen**. You have a very distinguished economic background. Are you familiar with the due process provisions in administrative hearings for Federal agencies, like IRS or whatever?

Mr. **Roselle**. Vaguely.

Mr. **McMillen**. That they include statute of limitations, evidentiary standards, cross-examination, right to face your accuser, right to representation. In your testimony you mention that you are afraid that you don't want this thing to go towards the trappings of a criminal trail, but don't you think the NCAA should abide by the same administrative due process provisions that a Federal agency abides by.

Mr. **Roselle**. In my model that I suggested for you, Congressman, the provision of due process was implicit. When we were working through our particular problem at the University of Kentucky, just about all of the people who were involved had legal assistance, and they watched us every step of the way.

Mr. **McMillen**. But that was internally, though?

Mr. **Roselle**. You have got it.

Mr. **McMillen**. If you espouse those standards internally at the University of Kentucky, why can't they be espoused system-wide throughout the NCAA?

There is somewhat of a contradiction in your comments.

Mr. **Roselle**. No, I don't think there is. The point is, the enforcement committee in the University of Kentucky's instance had a very small role. It really did nothing much except be advisory to what the process was after they learned we were going to investigate this thing thoroughly and that we were going to carry through with it.

Only the Committee on Infractions was the issue that was in any way, the investigation itself was——

Mr. **McMillen**. Right. Unfortunately time has expired.

Mrs. **Collins**. Mr. Oxley.

Mr. **Oxley**. Thank you, Madam Chairwoman.

Let me ask both you gentlemen if you would agree with the characterization that I would suggest is the public's perception of the NCAA, and that is that they are so involved with minutia of minor violations such as whether some kid got a sweat shirt when he visited the campus, instead of the major violations that they either overlook or fail to investigate. My perception is that is exactly how the public sees the NCAA, fairly or unfairly. I wonder if you would care to comment on that, Mr. Black.

Mr. **Black**. I think that is not only the perception, but to some extent the reality. When our commission met for the first time, I had a call about a week before from Lamar Alexander who said, "Creed, would it be all right if I bring a past member with me to these meetings?"

He said, "This NCAA rule book is more esoteric than the IRS code." Dick Shultz, in his speech this year at the NCAA convention, called for a simplification of the rules. I think the NCAA Congressman is tackling that problem.

Mr. **Oxley**. Maybe we should refer that to the Ways and Means Committee, Madam Chairwoman.

No?

Mr. **Roselle**. Mr. Oxley, the rules in the NCAA rule book are rules that are voted in by the members, all of them, and some of them are very trivial, and there are ways that you can get them dismissed through the self-reporting kind of thing.

I think the rule book got thick because the people involved in the NCAA are, in general, competitors, and when they feel that one of their competitor institutions is gaining an unfair advantage, they introduce legislation through the NCAA, usually through the coaches, and it comes up and it is adopted by the NCAA, and it is added to the rule book.

Some of the rules are very esoteric, like using a limited number of colors on the publications that are sent out by your school to recruit and so forth, and are really small and I think are considered really small by NCAA.

Mr. **Oxley**. Mr. Roselle, let me ask you a question about more and more involvement of the presidents in the NCAA, which has been espoused by other folks. What is the argument against that? Why would someone come to this table and argue against more involvement by university presidents?

Mr. **Roselle**. You probably won't hear that. I don't think that the failure for involvement was due particularly to a philosophical reason. I think as a practical reason the job is a busy one, the job of being university president, and the agenda is a somewhat long one.

I think people tend to delegate where they are able to delegate, and I think athletics was delegated for a very long period of time by university presidents. Maybe not the actual going to the game, but the administrative oversight of it and all was delegated to athletic directors, a job which has changed a great deal in the last few years, that of athletic director. So I don't think it is a question of—it is not a philosophical question.

I think it was a practical matter of just having room on the agenda. There is no question now that in American higher education, particularly the division one schools, athletics is very much on the presidential agenda.

Mr. **Oxley**. Mr. Black, would you agree with that?

Mr. **Black**. Yes, I think so. I think one of the things that has changed is the way the NCAA conducts its business, with what the President's Commission is doing and with the roll call votes, when we were trying to decide this, when I talked to one university President, asked him if he and other university presidents attended the NCAA, he said, no, not often.

I said why? He said, two, what David Roselle said, they have a lot of other things on their plate. The second thing, and you can identify with this, going to an NCAA convention is sort of like going to additional political convention that doesn't have a result.

I think it was true. The first time I went was in Nashville. I think I am reasonably intelligent, but I sat there all day and watched this voting and debate, and every time they would adopt some measure, 30 minutes later they would reconsider it.

At the end of the day, I didn't know what had happened. I had to read it in the papers the next day. But in the last year when I went back the second time, it was a new ball game. I think, as I said, you had record presidential involvement.

I think when I start talking about including the athletic program in the accreditation process, you are going to get the attention of the presidents. The NCAA itself is running a pilot test certification program?

A number of universities that would look at the kinds of things that we are talking about, not only financial integrity, but academic integrity and look at admissions and progress toward a degree and graduation rate and those things. That, too, is going to get presidential attention.

Mr. **Oxley**. Thank you, Madam Chairwoman.

Mrs. **Collins**. Mr. Barton?

Mr. **Barton**. Thank you, Madam Chairwoman. I have several questions on the exact role of this hearing today, this due process argument, but I would first like to say that I didn't have the opportunity that Congressman McMillen did to be a scholarship athlete in college.

It is obvious that Congressman McMillen did very well and actually went to class and graduated, and I believe you were a Rhodes scholarship, isn't that correct?

Mr. **McMillen**. That is a tremendous presumption that I went to class, but the second part of that was true.

Mr. **Barton**. We have a product of the system here that has done very well. The premise that I go through in these hearings is that, first of all, regardless of what the universities do and don't do, the very fact that they provide an athletic scholarship gives that scholarship athlete the opportunity to go to class and the opportunity to get an education.

Some take advantage of it, some don't. Some don't take advantage of it, perhaps because of the requirements of practice and the number of games that they are forced to play. Perhaps the NCAA should do something about reducing practice time and reducing the number of games in a season.

But I still believe that there is some responsibility for the individual to take advantage of the opportunity to get the education. So that is the role that I—the premise that I work on.

My first question would be there is going to be quite a bit of testimony after this panel that due process is not served, that institutions that are investigated by the NCAA have no opportunity to have counsel present, to record the interrogations. Do either of you gentlemen see a reason why that should not be allowed, why there should not be due process that I think Congressman Towns has talked about and others, and whatever the investigation is, it is ongoing?

Mr. **Black**. Well, let me speak for the Knight Commission report, as you will find that this subject is barely mentioned in there.

We had five public meetings lasting a couple of days each year in Washington, at which we heard from more than 80 expert witnesses on this subject, and I must say to you that due process did not emerge as a priority issue with this group.

The second observation I would make is that based on my experience in Kentucky, again in the pre Roselle scandal, the problem was not that the NCAA was coming in and running rough shod over people, but the NCAA itself said that one of the reasons they couldn't get the same kind of information or couldn't follow up on some of the information in the newspaper was that it lacked subpoena power.

I am not a lawyer, either. I don't know who asked that question, but if you are going to try to impose upon a private organization like the NCAA all of the same legal trappings that a government agency has, I think you would have to address that question of whether you give them subpoena power. I am not sure that there is any private organization in this country that has subpoena power.

Mr. BARTON. So you don't think the argument about due process has merit, then?

Mr. BLACK. I think everybody in this country is entitled to due process. That is how you are going to define due process, and, Mr. Barton, I would just say again, I don't profess to be an authority on this subject because it was not something that came to our attention.

It strikes me that most of the complaints about due process are coming from States where the universities or colleges have been penalized by the NCAA. I haven't heard any complaints about due process coming from schools or areas where the schools have lived within the rules of the NCAA.

Mr. BARTON. OK. Mr. Roselle.

Mr. ROSELLE. Well, as we walk through our particular issue, we kept all our employees informed kept their attorneys informed of exactly what we were finding out as we found it out and asked them to reply.

Their lawyers did attend a meeting of the Committee on Infractions along with, so it was very much—it was a legal process and they were advised throughout the whole process, just as we would handle the investigations of allegations of wrong-doing of any other employee of the institution. We kept them very well-informed throughout our investigatory process.

Mr. BARTON. I know my time has expired, but you would say the existing regulations that the NCAA has on how to conduct an investigation and the rights of the institution being investigated are adequate?

Mr. ROSELLE. Well, the framework or the way we did it was we kept all our employees informed of what it was we were finding out, and they did, their lawyers did attend the Committee on Infractions meeting along with them.

Mr. BLACK. Mr. Barton, are you aware that the NCAA itself is addressing this question with the appointment of a high-level Commission that is headed by a former Solicitor General of the United States and includes among its members a former Chief Justice of the U.S. Supreme Court, Warren Burger.

Mr. BARTON. I am not aware of that and I am glad to know that.

Mrs. COLLINS. The time of the gentleman has expired.

Mr. Towns.

Mr. TOWNS. Thank you very much, Madam Chairperson. You know, I listen to the fact that you said that change is in the air and I tried to become a little optimistic, you know, but I have to think about those athletes that I talk to who perceived the NCAA as being something different.

They perceived that the NCAA is just a bunch of bullies that sort of come in and say that this is the way it is. We don't want to hear anything else. This is what has to happen. I think that the other thing, when I looked at it just recently, that infractions that incurred 13 years ago, when the players were probably in kindergarten, nursery school, and et cetera, 13 years ago, and now the players are going to be penalized for something that happened 13 years ago.

Do you call that change? If so, I am a little afraid of that change.

Mr. **Black**. I think, as I said, Congressman, that the NCAA is changing. I Attended a press conference this morning where the NCAA was criticized for visiting the sins of parents upon its fathers for doing what you said, penalizing one group of athletes or one coach for something that happened before.

I find in some of this criticism of the NCAA the same mentality at work. I think the present administration of the NCAA is being criticized for what previous administrations did or did not do.

I am saying to you that I think there is an enlightened new leadership in the NCAA that Dick Schultz is not Walter Byers. I think the presidents are taking a much more active role than they ever did before, and I would remind you again that the NCAA is a creature of its own members and they can make whatever changes are needed or indicated.

Mr. **Towns**. But moving in a different direction, let me go at it a different way. Do you support a statute of limitations?

Mr. **Black**. Sure. I am a former newspaper man.

Mr. **Towns**. Statute of limitations. I am sure you do, but I am talking about in terms if infractions occur, how long should they last?

I am talking about in terms of years or number of months. Did the commission come up with anything on that?

Mr. **Roselle**. The NCAA has a statute of limitations. I believe it is 4 years for major infractions. Staff can make you familiar with that section of the rule book after the fact, but there is a statute of limitations in the NCAA now.

Mr. **Towns**. Let me ask you this, this really bothers me because I am not sure, you know, Mr. Roselle, that you are saying this. Are you for cross-examinations that you can face your accuser, that transcripts can be available?

At sort of an administrative hearing, are you saying you are for it or against it? You said internally at your university you used it. Are you saying the NCAA should use it or are you saying the NCAA should be different?

I am not sure I understand what you are saying on that issue.

Mr. **Roselle**. Let me go back to your first point. I believe, and let me get this on the record—in my experience with intercollegiate athletics, problems have centered on the adults, not on the young people.

The adults have been the people who have tossed the problems in intercollegiate athletics to a greater extent than the younger people have. There are exceptions to that, but that has been my experience.

I very much sympathize with your thing about not penalizing students. I think NCAA has tried to address that by allowing free transfers, no sit-out period and so forth, but I wanted to get that on the record.

The way we did the investigation at the university is the way you do an investigation at the university. You have your investigators go out and they learn certain things. They come back and tell the people what it is they have learned, and the person has a chance to refute that on the record.

That was all made part of the record. It is not a confrontation. It is not a courtroom proceeding. It is the way you run a university and most organizations.

Mr. TOWNS. Well, they have a right to face their accuser. They also have a right to have a lawyer, to get involved in cross-examination, but the NCAA, as I understand it, at the present time and also in terms of what has been recommended, that is not the case.

Mr. ROSELLE. I don't see my part of the process as outside the limits of the NCAA. We allowed our people enough freedoms that we were not challenged under the due process laws of the State of Kentucky.

If we had done something detrimental to one of our employees, they were represented by legal counsel. They would have been honest. We didn't have a lawsuit. The reason is, we did it correctly.

Mr. TOWNS. I know. That is your university, but we are now talking about the NCAA. I did not accuse your university of being a bully.

Mr. ROSELLE. Got you. The NCAA had no real role in the investigation at the University of Kentucky until we got to the Infractions Committee with our report and give it to them. That is my obligation as the president to investigate whatever allegations might be made, and indeed to find out if there are other allegations that we did that should have been made by NCAA about their program, what they were told.

They informed us fully of what they were told. The investigation was our responsibility. That is the way the honors system is supposed to work.

Mr. TOWNS. But there has been accusations made not on one occasion, but on several occasions that if you spoke out against NCAA that you will be penalized, and that they can penalize you in some ways.

My time has expired, but I think that is the point that needs to be addressed because if you speak out, they will come in and all of a sudden say this is wrong or that is wrong, and it will become a situation where you can't prove it because you have no way of going around—I know my time has expired.

Thank you, Madam Chairperson.

Mrs. COLLINS. Would you explain for me, please, Mr. Roselle, the statute of limitations and how it works?

Mr. ROSELLE. You know, I don't have the rule book before me.

Mrs. COLLINS. Could you tell me roughly.

Mr. ROSELLE. I will be doing this from memory. I believe it is a 4-year statute of limitations.

Mrs. COLLINS. Well, tell me how it works. We know sometimes what is written is not always how it works. How is it supposed to work?

Mr. ROSELLE. Our experience with how it worked earlier in the University of Kentucky.

Mrs. COLLINS. It is for 4 years for all infractions?

Mr. **Roselle**. I will get staff to make you familiar with it.

Mrs. **Collins**. When you go like that, that means no, not for all infractions?

Mr. **Roselle**. It means I don't know is all it means.

Mrs. **Collins**. OK. Why don't I yield to you in the meantime while they are looking for that?

Mr. **McMillen**. I know you are trying to hurry this panel, but I wanted to ask unanimous consent to ask one brief question.

Mrs. **Collins**. Without objection.

Mr. **McMillen**. One of the other concerns I had about the Knight Commission is that it did not deal with the issue of money and revenue distribution. When you look at history, and history has to be your guide at the NCAA's action, Title IX in 1972 was passed by the Congress, the NCAA fought it, and they fought it in the Department of Education for years and years and years.

You could say, I think, definitively that Title IX or anything close to it would never have occurred if it were not for Congress, student right to know, Congressman Town's bill, never would have occurred if it weren't for congressional pressure.

The point that I think is clear here is can self-regulation work? Can you deal with the amount of money that is funneling into the system? Can we come up with a model that deals with its money in a different fashion than winners take all or winners take most of the money, which is driving the system towards all these—if the NCAA goes too far and again history is our guide, schools will break away as they did with the CFA, as Notre Dame has done, so the NCAA is sitting there almost power powerless to do anything more than just marginal reform.

If they go too far, schools break away. Clearly that is the history. When they lost their antitrust exemption, CA was formed. Now the CFA is going to have its contract nullified in all probability by the FTC, more schools are going to do their own deal.

Ten years from now, if history is our guide, we extrapolate, what you are going to see is a fragmented system, nobody in control, money funneling into the system. We are going to be back here and say, my God, this is totally destroying our colleges and universities as institutions of higher learning.

Why did the Knight Commission not deal with that? That is the fundamental issue to me. Why didn't we talk about money? And do you think 10 years from now with the fragmentation of the money that is occurring that this is going to be an enhancement of higher education?

Mr. **Black**. Well, I think, first of all, we started from the premise which I expressed earlier that money, while—the TV money, particularly that has come into the system is a big part of the problem; that it is not the only part of the problem; that it is an oversimplification to say it is a money problem because you had the same problems in 1992, which is 60 years ago or more, and there wasn't any TV then.

I think that as far as the NCAA's distribution of the money, it gets basketball contract, we did address that problem. We said the perception is still out there and probably not just a perception to begin something based in part on reality that the formula that NCAA has adopted for the distribution of that revenue is still tilted too much towards the proposition that the rich get richer, and they are still putting too much of a premium on winning, and we have asked the NCAA's President's Commission and others to review that.

As far as the money which comes in privately in individual contracts, we heard, first of all, from one of the members of our commission, Jane Pfeiffer, former chairman of NBC, that that money is not always going there, that that is drying up.

There is such a fragmentation of TV programming now that you are not going to see the same kind of big bucks 10 years from now. You will hear people talking about pay to view these things.

I think that other parts of our proposals, Congressman, do address that. If we channel all the money into the central administration, you mentioned Notre Dame, that money goes into the Treasury. It doesn't go to the athletic department.

It is being used for athletic scholarships. If Notre Dame wants to make a deal with a TV network, this is attractive programming. We are going to pay you for it, and Notre Dame uses the money for athletic scholarships, I am not sure that that is bad.

Mr. McMillen. Well, it is time, I think, to move on to the other panel, but I believe unless something fundamental is changed, we are going to be back here 10 years from now and saying money is continuing to distort the system and the NCAA cannot fundamentally restructure the system to deal with it.

History has been our guide, and I am sorry to say I think that is what is going to happen. Unless we can mount this kind of pressure on the system so it will change, clearly the Knight Commission had a part in that.

Mrs. Collins. You can respond to his question. The time of the gentleman has expired. I want to get an answer to my question, too.

Mr. Black. The last point the Congressman makes about arms control, I think, tomorrow, that is one of the big problems that occurred to me is that the schools that get this money in put it all into their athletics department. They keep building up these bigger and bigger athletic departments.

If one football team gets an indoor training facility, the next one wants them. If one school gets another coach, the next school wants another coach.

Then if one school gets invited to a bowl game 1 year, they get those big bucks, and that all becomes part of the athletics department budget. They spend it all, and they become dependent on it. I think if you would take that money out of the athletics department and put it into the central administration and down-size the whole enterprise, you are going to reduce this arms race substantially.

Mrs. Collins. Mr. Roselle, you were going to give me a real fast for-the-record description of——

Mr. Roselle. It is 32.5-2. Allegations included in a letter of financial inquiry shall be limited to possible violations occurring not earlier than 4 years before the date of notice of preliminary inquiry as forwarded to the institution.

However, the following shall not be subject to the 4-year limitation; (1) allegations involving violations of protecting the eligibility of current student athletes; (2) allegations in a case in which information is developed to indicate a pattern of willful violations on the part of the institution or the individual involved which began before, but continued into the 4-year period; and (3) allegations that indicate a blatant disregard for the association's fundamental recruitment, extra benefit, academic or ethical conduct regulations or that involve an effort to conceal the occurrence of the violations.

In such cases, the enforcement staff shall have a 1-year period after the date information concerning the matter becomes available to the NCAA. To guestimate and to submit to the institution an official inquiry concerning the matter.

Mrs. COLLINS. Thank you very much. I will probably have a question in writing to the NCAA about that particular statute of limitations, but I want, at this particular time, to thank all of you—well, both of you for appearing before us this morning.

We are going to go now to our next panel, which will be Mr. Jerry Tarkanian and Mr. Dale Brown. Why don't you come forward at this time, please. Let me say that while you are coming forward that Congressman Bilbray of Nevada was here, and he had hoped to be able to introduce you, Mr. Tarkanian, but he had to go to a delegation meeting, so let me say that he stayed as long as he could, and he had to leave.

Why don't we begin with you, Mr. Tarkanian. Mr. Tarkanian is the head coach of the University of Nevada at Las Vegas.

STATEMENTS OF JERRY TARKANIAN, HEAD COACH, UNIVERSITY OF NEVADA AT LAS VEGAS; AND DALE BROWN, HEAD COACH, LOUSIANA STATE UNIVERSITY

Mr. TARKANIAN. Thank you for asking me to appear before the committee.

I feel honored to be here. As you know, I am going into my last season as a college coach. Something that happened partly before this very committee will greatly affect the players on my team this next year.

They will not be able to have their games televised or be able to participate in playoff games of any kind due to the fact that the NCAA imposed an additional year of sanctions on our university 13 years after its original sanctions, a time when these players today were only 8 or 9 years of age.

It is unjust that being prevented by a valid court order from getting at me, the NCAA moved to punish these kids. On July 12, 1979, before this very same committee, Congressman Bob Eckart of Texas asked whether additional penalties would be imposed against UNLV because of a court order precluding my suspension.

Charles Allen Wright, then the NCAA Infractions Committee chairman, stated,"I would think it would be utterly outrageous in that circumstance if the council were to say, well, inasmuch as the penalty against Coach Tarkanian has fallen, we have to do something else against the University of Nevada at Las Vegas."

He also said you satisfy a show cause very easily when you say we cannot do it because a court of competent jurisdiction has told us not to do it. That is absolutely iron clad. Iron clad or not, outrageous or not. I use Mr. Wright's words, not my own. That is exactly what the NCAA did last July.

Last year, though an injunction still stood against my being suspended, the NCAA added another year of probation to the school because they could not violate a court order. When we brought this up in front of the committee last summer, one of the comments was made, well, that is just one man's opinion, but we kind of thought it would be a pretty strong opinion considering it was made in front of the congressional committee.

My problems with the NCAA all started when I was at Long Beach State. I wrote three newspaper articles at that time. I was very young in the coaching profession, and I was very critical of NCAA, enforcement policies. The Director of Enforcement wrote some nasty letters back to the University and to me, saying I had no right to basically write those kind of letters.

That started an investigation against Long Beach. In 1973 I moved to Las Vegas. The NCAA reopened the dormant investigation at UNLV 1 or 2 days after I arrived. In fact, when the NCAA files were subpoenaed in my court case, one of the first articles that appeared was 1 or 2 days after I arrived, which was an article about me moving to Las Vegas and the Las Vegas investigation started.

The investigation for UNLV was 3½ years. The investigators intimidated witnesses, they created evidence to support their allegations of violations. They made statements and numerous statements to players that they would help get Tarkanian, that they can transfer to any school and be eligible immediately.

They made threats that kids had nothing to lose because they were going to drive me out of coaching. When we gathered this information, we thought we were offended by it, so we sent this information to Mr. Byers. We thought he would take appropriate action because we felt this was unfair.

Well, that was the biggest mistake we made because that just infuriated Mr. Byers, and they intensified their investigation, and they came to the conclusion that I was lying, and for that reason I was the first coach that they ever ordered to be suspended because I was lying, not because they had made threats to suspend me.

One basic thing that we brought to the committee was that Norm Sloan at that time was a basketball coach at North Carolina State. He had made the statement that an NCAA investigator told him they were going to drive me out of coaching.

The NCAA totally denied that. The investigator, Bill Hunt, totally denied this. Yet in 1979, before this very same question, under oath, Norm Sloan verified exactly what we had said, that they had made the threats that they were going to drive me out of coaching.

The investigation that I went through in 1977 is very difficult for any person to understand. We had box loads of documents. We had sworn affidavits. We had canceled checks. We had depositions. We had tape recordings, and the NCAA had nothing but recollections or memorandums written by their own investigators that said that this had occurred.

Even though we had sworn affidavits from those very same people saying that they never said that, the committee still chose to believe that the NCAA was telling the truth and we were lying.

In one incident which we thought would really turn everything in our favor, one individual tape-recorded an interrogation by an

NCAA investigator. The investigator was not aware of this tape recording, and at the time he reported to the Committee on Infractions that UNLV was asking questions so that they can cover up their case so that there wouldn't be findings made against them.

The investigator had no idea that this was tape recorded. We were so excited over this, we thought well, now we will get a chance to show the Committee on Infractions who is telling the truth and who is lying.

However, when we presented the tape, the Committee on Infractions refused to listen to the tape. They said that that was not relevant, and they would not even listen to the tape. So basically our situation was almost a hopeless situation.

Our evidence was totally disregarded, and the hearsay, the comments of the investigators stood up. The university placed UNLV on 2 years probation, and they ordered me to be suspended. It is the first time, to my knowledge, a coach had ever been ordered to be suspended.

The suspension was based on the fact that I had lied, not the fact that they had lied. What has happened to the investigator who was proven to have lied? He got promoted, while I had to go to court.

Other coaches told me at the time, "Tark, just be quiet. Go along with them because if you fight them, they are going to bury you." Coaches said the worst thing you can do is fight the NCAA because they are going to bury you.

I felt I was right, and I went to court, and I got an injunction. Seven different judges that heard my case all concurred that my due process rights were violated. One of the judges called it a stark chamber proceeding. Another called it trial by ambush. There is one charge that I would like to bring out.

I was charged with academic fraud, which is one of the most serious and probably the most serious charge ever. This charge, when the evidence was presented in the congressional hearings in 1979, when the committee—when the congressional committee heard the evidence, they asked Charles Allen Wright, the chairman, how could you have made a finding in light of all the evidence that the University had and the fact that the NCAA had virtually no evidence?

Charles Allen Wright said that evidence had come before us today, we probably would have made a different finding. However, for 13 years I have been ripped at every paper in the country, in "Sports Illustrated," many magazines, everywhere for academic fraud. Nowhere——

Mrs. COLLINS. I am sorry to have to ask you to cease your testimony at this time. We will probably get to more of it in the question and answer session, but the bells have rung. I would like to get the testimony of Mr. Brown on the record at this time, and then we will recess while we go over and vote.

[The prepared statement of Mr. Tarkanian follows:]

STATEMENT OF JERRY TARKANIAN, COACH, UNIVERSITY OF NEVADA, LAS VEGAS

Thank you for inviting me to appear before your committee. I feel honored to be here. For almost 20 years I've been involved in a battle with the NCAA over its enforcement tactics. As you know, I recently announced my retirement from UNLV and from college basketball. I wish that I could say I left because I had accomplished all that I set out to do, that I had given all that I could give, that I had reached all the goals set. I wish I could say that after 23 years, but I can't. I can't because it's not true. The truth is—I have been a vocal opponent of what I perceive to be the improper and unethical investigative practices on the part of the NCAA's enforcement division, as well as the absence of such fundamental protections as due process rights. My willingness to stand and fight has made me the target of virtual non stop investigation and attack by the NCAA enforcement staff who have cast a negative perception of me that can never be undone.

It all started back in the early 1970's when I wrote some columns for a newspaper in Long Beach, California. In three of those columns, I was critical of the NCAA enforcement program. In my naivete, I thought if I could raise issues, I could help improve the system. To say that my comments were coolly received by the NCAA is an understatement. The NCAA Assistant Executive Director wrote a letter to our conference commissioner criticizing my comments and casting, within the letter, a chilling attitude towards me and my future. It was around that time that the NCAA enforcement staff began to put a full court press on me.

Little did I realize then that what I considered to be an honest, innocuous, appraisal of the NCAA's enforcement program would result in spending a good part of the rest of my life being hounded night and day.

This is a large part of the problem with the NCAA—they consider themselves to be above reproach, beyond criticism. Those that are outside of its enforcement powers are ignored; those within can be relentlessly persecuted. Even Congress has, to date, been largely ignored.

In 1977 and 1978, Congress investigated the NCAA enforcement process. The subcommittee concluded the following: "The picture is that of a sanctioning body with incredible power which may affect the careers and ambitions of coaches and student athletes, as well as the stature of virtually every institution of higher education in this country. This power is exercised by the NCAA without observance to what we all assume are the minimal standards of fairness." The subcommittee suggested 18 recommendations for the NCAA. Representative John E. Moss, subcommittee chairman in 1978, stated in the letter of transmittal of the subcommittee report: "Should the Association fail to respond and accept the challenge before them, I must urge you and our colleagues not to hesitate to introduce Federal legislation which would provide adequate procedural safeguards to individuals subject to the NCAA's enforcement mechanism." The NCAA refused to make fundamental changes which the subcommittee recommended.

The primary recommendation of the congressional subcommittee was to have appointed an outside, objective, blue-ribbon committee to evaluate the enforcement process. This suggestion was turned down by the NCAA in 1978 and not until State legislature began passing due process laws of their own did the NCAA finally appoint a committee to look into the enforcement process, although NCAA officials still claim the process is "fine." As committee chairman it appointed the very same individual it paid to argue before the U.S. Supreme Court the NCAA's position that it shouldn't be required to provide due process, a case in which I was the plaintiff.

That Supreme Court case originated in the mid-1970's when, in the view of many, NCAA enforcement representatives stretched and fabricated evidence, twisted the truth, and threatened and intimidated individuals in an effort to drive me out of coaching. The only evidence against me was second and third band hearsay from biased NCAA investigators with a prosecution mentality. Not one piece of documented evidence was given by the NCAA investigators while the university and private attorneys provided box loads of documents in my defense consisting of cancelled checks, contracts, purchase requests, lie detector and voice analyzer tests, affidavits and depositions.

I did what any individual living in a free democratic society would do. I went to court to protect my rights and reputation. All seven judges who heard and reviewed the case evidence ruled my procedural and substantive due process rights were violated. One judge declared that my NCAA hearings were a "trial by ambush" and another stated it was a "star chamber proceeding." This decision was not overturned by the U.S. Supreme Court. In fact, the court let my injunction against the university stand. The U.S. Supreme Court held only that the NCAA is not required to provide due process under the Federal constitution because it is not a State actor.

The court based its 5-4 decision on the premise that the NCAA is a voluntary private organization. I submit that the four out of nine judges who thought otherwise were really correct. The NCAA is a billion dollar organization that controls hundreds of thousands of peoples' lives and which operates under virtually few controls. If an individual wants to reach the pinnacle of his profession in college athletics, he must be involved with the NCAA. As former NCAA President Wilford Bailey pro-claimed, "If you want to be involved, you've got to be in it. If you drop out, you have to pay the price." Walter Byers, founder and former Executive Director of the NCAA, spent considerable time, energy and influence to decimate competing amateur athletic associations, such as the AAU, AIAW and NIT. Byers used the NCAA's influence over television to form a virtual monopoly over major college athletic programs.

Though it fought very hard to win the "State actor," issue in the U.S. Supreme Court, the NCAA claims to have a fair enforcement process which already provides "due process." Yet the NCAA has literally spent millions of dollars in seeking sanctity from courts and legislatures, lobbying and litigating to remain immune from the very fundamental fairness requirements that it claims to already give. Why should an organization spend millions of dollars to remain exempt from fairness standards that it claims to already meet?

In reality, the NCAA enforcement procedures pay lip service to fairness but are designed for prosecutorial efficiency. Once official charges have been made, a violation has been found in every case because the NCAA acts as the police officer, prosecutor, judge and jury. Infractions Committee findings are simply rubber-stamped in an appeal process that does not even permit the institution to have a transcript of the Infractions Committee hearing. In the nearly 40 years of the NCAA's existence, no major penalty has ever been reversed by the NCAA Council.

One of the main reasons the NCAA is so successful in its enforcement hearings is that there is no accurate record kept of interviews. The NCAA prohibits its investigators from tape recording or otherwise transcribing interviews. Instead, an investigator is supposed to take notes and later prepare a memorandum of the interview based upon his recollection of events. These memos are then used to support the NCAA's case. In a best case scenario, such a system is inaccurate; at its worst, this process is loaded against the accused. The lack of an independent record allows investigators to shape "evidence" in a manner which best guarantees "conviction." Although the NCAA announced a few weeks ago that "some" interviews would be taped, "some" rather than "all," makes one suspicious of the interview circumstances.

Another aspect of due process missing within the NCAA is a legitimate standard of evidence. I was found guilty of a charge by the NCAA when the only evidence presented by the investigator was a memo of his recollections of a conversation he had had with someone who told him that I had paid for a student athlete's airfare. In contrast, our university presented a copy of an out-of-State high school's payment request, a copy of a cancelled check and six sworn depositions and affidavits, all documenting that the player's high school had funded the ticket purchase.

On another charge against me, congressional representatives questioned members of the NCAA Infractions Committee on how they could reach a finding of guilt on so little NCAA evidence compared to such strong evidence presented by the university. Charles Alan Wright, a former Infractions Committee chairman, stated: "I do not believe that a finding would have been made in that episode if it came before us today." Yet no steps were taken by the NCAA to remove that stain from my and the university's reputation.

The NCAA investigators work hard to catch a coach in a lie or to somehow show he or the institution is not trying to get at the truth. Greater harm can be done to the coach and the university if it can be shown there was a "cover-up" of some kind. Coaches lose their jobs and athletes are declared to be ineligible if the Infractions Committee feels they have not been truthful. What happens when an NCAA investigator is found not telling the truth? In my situation the answer was short and simple: a promotion.

David Berst of the NCAA enforcement staff at one time interviewed a New York witness named Rodney Parker. In the Infractions Committee hearings, Berst, based on statements he claimed Parker made, four times accused our university of not trying to get at the truth or hiding the truth. Berst did not know that Parker had tape recorded the conversation. A comparison of Berst's comments before the Infractions Committee with the tape of the actual conversation showed Parker did not make the statements Berst attributed to him and, in fact, showed that both Berst and Parker had stated during the conversation that it appeared that UNLV was trying to get at the truth. When the tape was brought to the NCAA Council's attention, they made no response and simply rubber-stamped the Infractions Committee findings. After my 1977 case, the NCAA promoted David Berst.

It is a matter of record in the congressional subcommittee hearings of 1977 and 1978 that representatives of the NCAA enforcement staff stated they would drive me out of coaching. Under oath before this very same subcommittee, Norm Sloan, then coach at North Carolina State, testified that Bill Hunt, NCAA Assistant Executive Director, stated: "We are not only going to get him. We are going to drive him out of coaching." David Berst, who admitted under oath that be referred to me as the one who looked like a "rug merchant," which is known to be a bigoted term in reference to my Armenian ancestry, has also made public his intention to run me out of college athletics.

I personally have spoken with individuals who are afraid to speak negatively about the NCAA. I go to conventions and numerous coaches approach me urging me to keep fighting, but almost all of them are afraid to step forward themselves. Many see what has happened to me and realize there is little hope in fighting back.

I've spoken with media representatives afraid to report negatively on the NCAA because they might have their NCAA media credentials pulled and even, in some cases, that they would be put at a disadvantage at their network because of bidding for NCAA television rights. One businessman was afraid to openly be part of a group questioning NCAA actions because he feared the NCAA might remove planned basketball regionals from an arena of which he was part owner.

University presidents, faculty, coaches, athletes and conference commissioners testified in previous hearings before this committee about the intimidating nature of NCAA proceedings. The House subcommittee report stated: "Institutions were cooperative, even anxious to tell their stories, but they were loath to be identified."

Coaches, athletic directors and athletes are scared when the NCAA comes to investigate. They know the rules are written in such a way that enforcement representatives can find some violation at any school. Joe Paterno, head football coach at Penn State, was quoted as stating he probably broke NCAA rules every day without knowing what they were. The NCAA enforcement staff often does not follow its own rules, will not share case histories and will prevent schools under investigation from obtaining past rule interpretations.

The hopelessness in fighting the NCAA became quite evident to me last summer when the NCAA Infractions Committee imposed an additional penalty on UNLV after the school had already completed its 2 year probation in 1979. Players only 7 or 8 years of age at the time will be punished this year because local and State courts ordered and the U.S. Supreme Court let stand an injunction which prevented the school from suspending me as the NCAA had ordered because the courts found my due process rights were violated.

The NCAA, itself, in 1979, ruled that the injunction against the university was sufficient cause for the university not suspending me. On July 12, 1979, before this very same committee, Congressman Bob Eckhardt of Texas asked whether additional penalties would be imposed against UNLV because a court order precluded my suspension. Charles Alan Wright, former Infractions Committee chairman, stated: "I would think it would he utterly outrageous if in that circumstance the council were to say, 'Well, inasmuch as the penalty against Coach Tarkanian has fallen, we have to do something else against the University of Nevada at Las Vegas'."

Well, utterly outrageous or not, that's exactly what the NCAA did—thus showing its contempt for a lawful court order and its disregard for statements made under oath before Congress.

The NCAA which claims it has made enforcement improvements, which claims it is fair and governed well from within, reached out in defiance of a court order, contrary to their chairman's words under oath before Congress and did this "outrageous"act. And that is not my description of the deed, it is the very description used by the respected Charles Alan Wright. And the deed was not done in the 70's or the 1980's, but in 1990, thus showing how far along the NCAA enforcement program has come since Congress previously investigated it.

But this type of reaching out to punish others is not new in the NCAA. Earlier, the NCAA had placed the basketball program at the University of Minnesota on probation and demanded that three student athletes be declared ineligible by the school. The NCAA informed the school that it could hold due process hearings. At these independent due process hearings at the university, it was determined that evidence did not support declaring the three student athletes ineligible. The NCAA then charged that Minnesota had failed to carry out its NCAA membership obligations and should declare the student athletes ineligible in spite of the outcome of the due process hearings. Thus, as Minnesota President C. Peter Magrath stated, ". . . Minnesota had a duty to provide objective and impartial hearings, but, at the same time, was told by the NCAA if such hearings did not lead to the desired results—as predetermined by the NCAA—then the school was in contempt of the NCAA's rules."

When Minnesota was unwilling to subscribe to the NCAA's interpretation of due process, the NCAA put the school's entire athletic program on probation. "It was obvious," said President Magrath, "the NCAA was trying to pressure the school into choosing between the due process rights of three student athletes and post-season tournament privileges of more than 500 other varsity players. After much deliberation, the school chose to do what it thought was morally right." They stood by the due process rights of the three student athletes.

"For almost 2 years," said Magrath, "we upheld the conviction, until finally we were forced, by what amounts to be competitive blacklisting, to declare the student athletes ineligible." The NCAA had declared that if Minnesota did not make the student athletes ineligible, then every team in the Big Ten, the school's conference, would be prevented from participating in NCAA post-season play. According to an NCAA rule, any conference that wishes to qualify for post season tournaments must be in good standing with the NCAA. Should even one school fail to be in good standing, then every other member loses its automatic NCAA post-season privilege. The University of Minnesota backed down so as not to jeopardize the rights of basketball players for all other Big Ten schools. And thus, again, the NCAA showed its version of "due process."

I can speak personally of the high costs of standing up to the NCAA. For approximately 8 of the 18 years I have been at UNLV, the NCAA has been investigating me and my program. During that time, high school players have been warned by NCAA investigators not to come to UNLV and high school coaches have been warned about sending their players to UNLV. Unfortunately, this long-running dispute also has harmed those around me, including my players, coaches, family, friends and university. With the frenzy of media activity surrounding NCAA innuendoes, it has been difficult, if not impossible, to get out true facts about our program.

For example, our student athletes graduate at a rate above other students on our campus. Our black student athletes graduate at a rate significantly higher. Our university was one of only nine institutions throughout the country whose special admissions were lower for athletes than for regular students. We have perhaps the best program in the country for bringing back former student athletes and guiding them to finish their degrees. This year four of our team's six seniors went through graduation ceremonies, another who will play professional basketball is within reach of his degree. One former player came back and graduated and another player graduates at the end of the summer with eligibility remaining. Thus we will have six graduates this summer and a seventh expected to graduate within a year. In addition, as reported in a study published by USA Today, in 1990 UNLV athletes contributed more hours to community service than any other school in the country. Even the White House appointed People-to-People Sports Committee has contacted us concerning sharing information about one of our academic projects. All this, however, gets lost in the publicity of the NCAA battles.

As I end my college coaching career, I look back with satisfaction on the fact that I loved the kids I coached—loved working with them and helping them perfect skills. I've joyfully embraced being their teacher and given kids a chance. Most of them have gone on to make strong, positive contributions to their community.

My college career has been painful at times with continual NCAA harassment, but even former NCAA Executive Director, Walter Byers, admitted I was influential in getting changes in the enforcement program. I'm proud of that and I hope more changes will be made to make the process completely fair and equitable.

That's a legacy I leave for coaches who follow me. They may not realize it now and may not for years in the future, but I feel that some day my fight will be recognized as contributing greatly to rights for fellow coaches and future athletes.

Mrs. COLLINS. Mr. Brown.

STATEMENT OF DALE BROWN

Mr. BROWN. Thank you, Madam Chairwoman. A very gallant woman in 1955 made a stand. Her name was Rosa Parks. Nothing had really ever been accomplished.

December 5, 1955 a boycott began which said you don't have to go to the back of the bus. We have been in the back of the bus as coaches for an awful long time.

There is no question that there needs to be change. Some coaches should be fired. Cheating is cheating. It is that clear. I saw when this committee started out, Madam Chairwoman. You have a sensitivity in your eyes, not flirting, by the way——

Mrs. COLLINS. Oh, shucks.

Mr. BROWN. You would be unable to coach because an area that has not been discussed by anyone today is the NCAA has historically legislated against human dignity. Change, everybody talked about it.

On June 16, 1984, John Toner, president of the NCAA, testified before the Senate Subcommittee on Education, made the following statement: "I object to using athletics constantly as a whipping boy for whatever deficiencies may be perceived in the Nation's systems of secondary and higher education."

In 1977, again, the U.S. House of Representatives held hearings to investigate the fairness and equity of the NCAA enforcement practices. After its review, the subcommittee issued the following statement, "The picture is that of a sanctioning body with incredible power which may affect the careers and ambitions of coaches and student athletes, as well as the stature of virtually every institution of higher education in this country."

This power is exercised by the NCAA without observance of what we all assume are the minimal standards of fairness. Walter Byers, himself, as he retired, said, "Time and circumstances have passed the entire system of intercollegiate athletics."

The management structure has become bureaucratic and unresponsible. I include the NCAA in that. The present scholarship compensation cap is no longer fair to the athlete, and is legally defensible. I think there is an inherent conflict that has to be resolved immediately.

I thank all of you for this opportunity to discuss this topic of who is in control of intercollegiate athletics. It is refreshing to know that elected officials finally are concerned about this topic, even though I am not for Federal control.

We can clean our own house up with good presidents and with Dick Schultz at the head. This impacts thousands of students. My greatest complaint, and I have been in the past quite critical of the government body of major college sports. Today, I come to you with no grudge. I am not running for any political office. I am at the dawn of my coaching career after 35 years, but I would like to see people treated properly.

My major complaint with the NCAA as an organization has always been that until the arrival of Dick Schultz, and in some extents, he can't change everything. It legislates, again, human dignity.

In their desire always to look at the bottom line, the NCAA members have a long established pattern of passing rules, restricting the rights and benefits to the student athletes that make all this possible.

We can spend thousands of dollars traveling all over the world recruiting a player, but once that player comes to campus, we can't treat them as human action. If they need dental work—and, by the way, some have never seen a dentist in their life. We have to tell them that they must pay for this work themselves.

Then we have to be hypocritical enough to tell them that the NCAA rules prohibit them from going out and getting a job if they are on scholarship. The revenue from the 1991 NCAA division one basketball tournament was a staggering $60 million, yet there is a rule prohibiting us from making sure the parents of often times poor children and often times black, they can't afford to enjoy a decent meal with their son or stay in the same top flight hotels that all the presidents, Ad's, coaches, and yes, NCAA staff members stay in.

All of these rules have grown out of our distrust for one another, to be frank. Every time a coach or university finds a way to do something their competitors don't like, the competitors propose a rule. That is the only thing I agreed with President Roselle, and I am sorry he left because I don't want to talk about him behind his back.

Rules should be simple. Tom was mentioned as being a Rhodes scholar. I went to a small teachers college. I did go to class, Tom, but I wasn't a Rhodes scholar. You don't have to be a Rhodes Scholar to understand what cheating is, yet Melvin Belli and F. Lee Bailey, two attorneys, just now had to look through a 295-page book to understand what cheating is.

Is cheating you don't change transcripts, you don't buy a car? I have never had a hard time knowing right from wrong. Those things are wrong. But is buying a pair of dress shoes for an athlete that has just tennis shoes to go on a road trip wrong?

I don't think so. The NCAA does. On numerous occasions I sent 6 years in a row to 1,200 college presidents, chancellors, ADP's, faculty representatives, head football, head basketball, conference commissioners and NCAA staff members, letters about rule changes, due process, human dignity, only the guilty should be penalized, no immunity. I received a letter back from what I think is one of the greatest coaches of all time, John Wooden.

He comments, "Deal Dale, that was quite a letter, and certainly was loaded with many common sense suggestions, which, of course, will probably be ignored because they do make sense."

The Ten Commandments can be typed on a 3-by-5 card. The NCAA rule book is hundreds of pages with confusion on each page. However, for the first time in my 25 years as a college coach, I am encouraged that the NCAA can lead us properly.

Some people may have to be eliminated. My hope is in one man primarily, Dick Schultz, who I believe has an understanding of the problems and compassion to solve them. I really believe that he can turn this cold monster around. Already, I have sensed a difference. Dick is reaching out, traveling, listening. All of that is encouraging.

Finally, before my time runs out——

Mrs. COLLINS. It has.

Mr. BROWN. I plead to the committee for the following. We have spent virtually generations honing our skills as social critics. We have undertaken studies beyond count, participated in symposiums unending, and in the process we have arrived at answers.

I do not believe that answers are what we lack. What we lack is action, because that calls for courage. It calls for standing against a crowd, not being one of the establishment, and laying one's popularity at risk.

As Eric Fromme said, "He who has a conviction strong enough to withstand the opposition of the proud is the exception rather than the rule, an exception often admired centuries later; mostly is laughed at by his contemporaries now."

Finally, we who meet here today again face that moment of truth, whether to issue still another report that will capture the press fancy for a moment, then be consigned to dusty shelves in the back of the library, or whether to stand collectively at all and demand that we and all society put our house just not in order, because sometimes order hides untruth and even chaos. But in priority, a priority that places our young people, and thus our futures before money, because that is really what it is all about, money.

Mrs. COLLINS. Thank you. The subcommittee has to go over to the Floor for a vote, so we are going to recess for 10 minutes.

[Brief recess.]

Mrs. COLLINS. This hearing will reconvene at this time.

Mr. Tarkanian, I was reading your written remarks, among them you talk about a situation at the University of Minnesota. You say when NCAA charged Minnesota failed to carry out its membership obligations, and so forth, and should declare student athletes ineligible in spite of the outcome of a due process hearing.

You also say when Minnesota was unwilling to—I am on page 10—was unwilling to subscribe to the NCAA's interpretation of due process, the NCAA put the school's entire athletic program on probation.

It was obvious, said President McGraph, the NCAA was trying to pressure the school into choosing between the due process for student athletes and post-season tournament privileges of more than 500 other varsity players.

Mr. TARKANIAN. They are saying either you follow their decision, which was to make these three kids ineligible, or else your entire athletic program will go on probation. All athletes, regardless of what sport, would be placed on probation.

It was very similar to my situation and the fact that when the NCAA, because they didn't give me a fair hearing and I was able to get an injunction against them, they said if they couldn't punish me, they would punish all the players.

Mrs. COLLINS. Mr. Brown, you mentioned the coaches at the back of the bus. It has been my impression that at the back of the bus, there is a pretty good party going on. The coaches can get the contracts for themselves for tennis shoes, or Pepsi Cola, or whatever the goodies might be. Can you comment on that?

Mr. BROWN. First of all, no one asked me, after being a basketball coach after 8 years—and I am grateful to be because I had no name and came out of nowhere, that I was making $28,000. There are not as many coaches that are as fortunate as Jerry and I, to have the longevity.

The average coaching career of a coach is only 3 years. The normal pay usually is almost half of a school teacher. You can make more delivering papers. Your observation about making large money on endorsements and all of that is correct. I am not for that.

I offered the NCAA and the Southeastern Conference a fairly large amount of money that I was going to get from a shoe contract and other sources. I guess we have not gotten to supporters yet.

You don't get any money for wearing their jocks. I guess you can't see them, but that is coming next; large sum of money.

I gave it to the NCAA or the SEC with the idea that if a person gets a toothache, that instead of doing a clandestine move to get his tooth fixed, you are honorable enough to get his tooth fixed.

When the final four is played, let the parents of these children attend. The NCAA and the SEC said there was no mechanics to operate that money. Thank you for the large gesture.

Yes, there are large sums of money, but there is far too many that are released—we are kind of a scapegoat for everybody. As a coach you feel you have to take a shower all the time; it is all us.

Mrs. COLLINS. What we want to know is how can we prevent these kinds of things from happening. It seems to me the presidents of the universities ought to have control over these things.

It seems the coaches are controlling the president. That is not to say it should be.

Mr. BROWN. Often times that may be true.

Mrs. COLLINS. What would you suggest they do about that?

Mr. BROWN. I didn't read this, but I would like to. It doesn't mean everything is OK in college athletics. Sports hearings, such as this, are necessary. I am encouraged more and more light is being shed on these problems.

Mrs. COLLINS. These problems have been around for a while. The light has been on them for a long time?

My question is do you know why nothing has been done about it?

Mr. BROWN. Yes, it is all money. It is dollars.

Mrs. COLLINS. We are right back where we started at the root of this evil?

Mr. BROWN. Yes; if we don't do something here. Believe me—and I am not a stage—it is never going to change.

There needs to be change made. The guilty parties should be penalized. If a young man—let's not forget the athlete.

Let's not put a halo around all of their heads. They know if somebody is going to change a transcript or give them an automobile.

Mrs. COLLINS. Don't you coaches go around and give these kinds of inducements to young people?

Mr. BROWN. If a coach does that, he should be fired. The answer is yes, there are, just like there is illegal Congress people.

Mrs. COLLINS. Why haven't they been fired?

Mr. BROWN. Some have. A lot of it is a lack of guts.

Some of the presidents are in a coma, too busy in other things. Now all of a sudden they have emerged, they become the self-righteous people. The coach is the whipping guy.

Let's go back to the athlete. I am not playing a violin or harp here.

I grew up in a one-room apartment with a mother on welfare. I saw her twice take 40 cents and a quarter, two flights of stairs back to the Piggly Wiggly because they gave her too much change. If you think my value system isn't going to follow my mother—yet in coaching you can be proven guilty when you are not. We went through one of the longest investigations with no allegations against the coaching staff and little pieces of lint. It is called a witch hunt. That has occurred in the past.

If it doesn't end now, it will occur 20 years from now, same subcommittee meeting. We will be doing the same thing.

Mrs. Collins. Mr. Tarkanian, can you describe for me the record of graduation rates for your athletes, for student athletes compared to the general student body? What are the percentages of blacks and other minority students?

Mr. Tarkanian. We have a higher rate than the normal student. We are one of the few universities whose basketball players graduate at a higher rate than normal universities. That was just mentioned a couple of days ago in "USA Today."

Mrs. Collins. I am concerned about the graduation rates. I think some of it has to do with the fact that many of the students who are recruited by the coaches and by the athletic department take students who shouldn't be in college in the first place.

Somebody made the statement they are pieces of meat, which caused me a great deal of concern, as you might expect.

Once these kids are there, are there any special programs given to them to bring them up to snuff, so they can graduate and have the ability to get jobs after they have been used as a piece of meat?

Mr. Tarkanian. I think every kid should have the opportunity for an education, I think of any kid who can qualify.

If he can't qualify to get into a university, he can go to a junior college. Anybody can get admitted to a junior college.

If he gets grades to qualify him to a 4-year university, I think that is wonderful. I think every kid should have that opportunity.

Some of them will grasp it and make the most out of it; some will not. Some are not going to make it.

Mrs. Collins. What do you do with the student who is not going to make it? You find a student in your university, he is a Michael Jordan to be, darned good, yet he is failing in his classes? What do you do with that as a coach?

Do you report it to the academic dean or something?

Mr. Tarkanian. I think it is the responsibility of every academic university to provide academics for every athlete. If it means coaches helping the kids with tutoring, I think you have to provide them with every academic support; then it is up to the kid himself.

I don't think you can hold a coach responsible if a kid absolutely doesn't make an effort. I think if he doesn't make an effort, invariably he is going to drop out on his own anyway.

I don't think it is fair for someone to sit here and say that kid doesn't belong in college. We recruited a couple of kids who some people would have said didn't belong in college, who made great careers for themselves.

Mrs. Collins. Let me take for a second—I know my time has long since expired.

I think you probably heard me mention this particular kid. Here is a kid in Chicago. His name is Ross. He went to Creighton University. His name is Kevin Ross. He went there. He says he was accepted at the Missouri Valley Conference School although his college entrance exam scores were below the national average. Ross later admitted he was functionally illiterate, unable to read even a restaurant menu.

What college in the world would admit a kid like this. That is the whole thing I have about this.

Mr. BROWN. I am sensitive to that. Instead of suing Creighton University, I wonder if he should sue his parents, guardians, his first grade teacher and maybe even himself. This is a free country.

Mrs. COLLINS. It is a free country, but I believe the coaches know when a kid cannot pass a SAT, and it is their responsibility not to admit a kid in there.

Mr. BROWN. You can't get in. Please don't—here is what has happened, Madam Chairwoman.

Mrs. COLLINS. I know what has happened.

Mr. BROWN. If we do, we better change it.

Mrs. COLLINS. That is what I want you all to do. I want somebody in the NCAA, the coaches to change, the presidents to change, and the system to change so it is fair to these students.

Mr. BROWN. You all have got to help us.

Mrs. COLLINS. My time has long since expired and I am going to call on Mr. McMillan.

Mr. MCMILLAN. Both of the gentleman testified and exceeded their time earlier by not much. But I was watching over on the vote and ran into Curt Prins, who used to—you may recall, he used to referee ACC basketball. He works on the Hill now.

I said, "What do you do when these guys testify and go over their time?" He said, "Call a technical."

I said, "Suppose they don't pay attention to that." He said, "Call another one." I said. "What if they don't pay attention?" He said, "They get thrown out of the game."

Thank you guys for being here.

Let me ask you this—both of your testimony has been interesting. I don't want to get into the details of due process, as important as that is.

But if you both would each respond to this: Do you think that the universities that you represent are in principle supporting the same policies that the NCAA is trying to support, or do you see conflicts that have not been resolved within your own universities that create problems?

Mr. TARKANIAN. First of all, I think practically every university is supporting the same policies. Certainly ours is. I don't see any real problem with any of the universities in that area. I think just about everyone is in support of the NCAA policies. I think there is such a wide difference in universities.

We certainly—it would be a shocking situation if we had all Dukes and all North Carolinas. I think it is great that we have universities that will handle the innercity kid and give them an opportunity to get an education. I think it is every bit as important as it is to have the Duke and the Stanfords and everybody else.

Mr. MCMILLAN. As a policy does the NCAA recognize that, in your judgment?

Mr. TARKANIAN. I think to a certain degree they do. I think the policies themselves they recognize.

I think perhaps they are treated totally different.

Mr. MCMILLAN. For example, do you get taken to the cleaners because the graduation rate at the UNLV is around 20-odd percent, and that happens to be the nature of that university and the policies of that university?

Mr. **Tarkanian**. Our basketball program since 1983 is 47 percent. That is when we hired full-time academic advisors.

Prior to that, my wife and coaches did it all, and it was low. Once we got the funds, we went up.

Yes, I do think we get taken to task for that.

Mr. **McMillan**. I assume there are reasons for that, and I don't want to go into it. High turnover or whatever.

Does the NCAA policy in that case take that into account in terms of—I mean it is not a rule that you have to live by, is it, that you graduate a certain percentage?

Mr. **Tarkanian**. We all have—the rules are such that not particular with Prop 48.

Everybody has basically the same requirements for eligibility, whatever school it is. Some schools can be higher than Prop 48, but everybody has a minimum standard of requirement for eligibility. Certainly some schools are going to get a better student.

Mr. **McMillan**. You don't have any quarrel with the NCAA setting some level of academic standard?

Mr. **Tarkanian**. I think it is wonderful. I totally support that.

Mr. **McMillan**. Do you have any comments about that issue of—because I think maybe in some cases we have got situations where we may have a coaching staff that is out of sync with the administration, or maybe the administration hasn't decided what it thinks. You are operating somewhat in a vacuum out there. Then you have got this set of regulations that is going to be promulgated against you. You are caught between a rock and a hard place.

Mr. **Brown**. I think that is accurate. I think only 19 percent of Americans have a college degree.

It seems like we are focused on athletes more than anyone because that is a visible thing. But I think the frustration—I would agree, and I am surprised I am going to say this because I really fought Proposition 48, because I thought it possibly had some racial overtones. It may not have, but I felt it.

I now am even for higher academic standards. You say that is going to exclude people. No it isn't.

Junior college systems are adequate in most States. I think a lot of guys, as Madam Chairwoman said, this young man Ross maybe had there been higher standards, he could have gone someplace to a junior college and maybe improved. The situation is we don't set those standards.

Tomorrow if they said every guy had to have a 3. average and a 20, which sounds ludicrous, that would be fine; then you don't have the academic problems.

The academic problems are inherited in the fact there is 50 million functionally illiterate in this country. Our problems are not generate by us alone.

Not all those 50 million happen to be athletes.

Mr. **McMillan**. While we talk about academics, what a lot of people are saying, that isn't the real issue. The real issue is money; right?

Mr. **Brown**. That is my feeling, yes.

Mr. **McMillan**. The gentleman from Maryland, who served on the Commission, also addressed that question. Money drives the situation.

Do you feel free to describe how the athletic dollar is handled within your own universities?

Are you at odds with it?

Is it at odds with what, if anything, the NCAA, what standards it may set? Should the NCAA set higher standards with respect to the handling of money?

Mr. **Tarkanian**. I am not sure how to answer that.

I am not sure whether you are referring to how a scholarship student gets his money, or are you talking about gate receipts or television money?

Mr. **McMillan**. The whole thing. College sports generates money because people are enthusiastic about it.

Mr. **Tarkanian**. At our university we have, I think, 16 sports. Fifteen of them lose money. One of them makes money. We get some State funds. I am not sure how much that is, but we get State funds. The rest of the money all comes from donations and scholarship drives.

Mr. **McMillan**. Do you fund scholarships out of voluntary contributions or out of gate receipts?

Mr. **Tarkanian**. Both.

Mr. **McMillan**. You don't have a division on that; it all goes into the athletic pot?

Mr. **Tarkanian**. Yes, I believe, it all goes into the athletic program.

Mr. **McMillan**. There have been suggestions that the school basically represents the coach in terms of any other supplemental income he may earn from sports camps, sports endorsements, television commentary, and so forth; do you have an opinion on that?

Mr. **Tarkanian**. I kind of like it the way it is now.

Mr. **McMillan**. Coach Brown, do you have an opinion about that?

Mr. **Brown**. I think the moneys are handled normally badly. There used to be unlimited numbers of times you could go see an athlete play. Wasted moneys.

The moneys are there; it is the priorities of the moneys, the promotions, like I said.

Today I would again, and I am not a member of the Salvation Army, but I would willingly, any money I could get from shoes or balls, if they could start a fund that you could get a kid a sport coat, you could fly a parent to a final four, everybody else gets on that bus.

I don't know how they do it. Everybody stays in that plush hotel, but the kids parents don't. Often most of these kids, like myself, they are from poor families. There may be an exception.

Congressman McMillen may be an exception. Most of these are poor kids. They normally come from one-parent homes.

We need a Caesar Chavez to lead us out of our vineyards. We have not done it. This has repeated itself time and time again. The moneys are there.

Mr. **McMillan**. How about Norman Schwarzkopf?

Mr. **Brown**. I will work for him.

Mr. **McMillan**. What you are saying is that the NCAA focuses on a lot of trivial regulations in its rulemaking and its enforcement? A lot of things that should be embraced is legitimate support of athletics and athletes, is treated as a crime, so to speak.

So the rules should basically be broader or we should go ahead and be honest about that?

Mr. **Brown**. That is correct.

Mr. **McMillan**. Then be clean about it what it is we acknowledge what we are doing?

But we are playing a game? We are enforcing the trivial, and ignoring, maybe, the fundamental?

Mr. **Brown**. Often times I found that in the past to be true. But the one point—and I hope I made this clear, the moneys are there.

Even though there is a lot of sports that football and basketball are responsible for, I think if you just look, I happen to be, maybe, in left field with this, but the fact that the shoe business money; there is a lot of ways to promote money for kids. Get the shoe business companies to give money to the schools to help.

Let the coaches through camps and a variety of reasons—I don't want to go to the poorhouse. On the same token, I would reach out just to embarrass our organization, and I said "our," there is money there. It is the way it is spent.

You don't have to take 10 faculty representatives and 15 alumni when you go on a trip. Maybe take a parent or two.

I think it goes back to human dignity.

Mr. **McMillan**. In other words, one of the issues here is we ought to do something that imparts due process, and so forth. I don't happen to think that is the right answer. Why is it so hard to change the rules in a reasonable way and for NCAA to address some of the concerns that you have?

Mr. **Brown**. I wish I knew that answer. I don't know; but I have been fighting it for 25 years as a college coach.

This is my last hurrah. If it doesn't work this time, I don't want to back down or give up, but it is like you are spinning your wheels. You get sick of hearing yourself talk.

You are subjected to criticism. Most people wouldn't do what we are doing. Especially if you are not guilty, you are not going to come up here. In the past there was witch hunts.

Anyone can say what they want; I experienced one. I was told Walter Byers and his group is going to come after you. There were a lot of illegal things done.

People aren't going to be very vocal about this. It has been a little inside house. It has been intimidation.

Mr. **Tarkanian**. I was asked through the convention in Indianapolis at the final four this year, I would have at least a dozen coaches pull me aside and say, "Coach, keep fighting those guys. You are standing up for our rights."

I said, "Why don't you say something?" They are all scared. They are all intimidated.

I think there is a general feeling in the coaching profession that if you say anything negative about the NCAA, they are going to bury you. I think it is very important that this subcommittee make some kind of effort to get the NCAA to provide coaches and athletes with fundamental rights, whether it be administrative, due process or whatever it be. But I don't believe that you should be able to go to a hearing and have an investigator—if you can look at a situation where it exists now that investigators can, can fundamentally pick on anybody they want; they can drive that person out of coaching; they can destroy their careers, unless the congressional committee steps forward and makes them have some kind of fairness.

Certainly the Supreme Court case said they are a voluntary organization. They don't have to provide due process.

If they are not going to do it on a constitutional law, well I think it has to be done in Federal law. I think every American should have an opportunity to defend himself, should be treated fairly, should be able to go to a hearing and come out knowing that they had a fair hearing. That does not exist today.

Mrs. **Collins**. Mr. Oxley.

Mr. **Oxley**. Thank you.

A former coach wrote a book "Caught in a Net." He coached at my alma mater at Miami. Before that he coached under Bobby Knight at Army. I am sure you gentlemen know him.

He described a lot of the problems that apparently still exist in college athletics. In the book, he pointed out many of his shortcomings, and how he was, at least in his opinion, forced to take compromising positions in terms of recruiting, in terms of big money and athletics, and so forth. That book was published probably 15 years ago.

Have there been any positive changes or even negative changes in the system since Tates Locke wrote that book?

Mr. **Tarkanian**. I think there has. I really believe the big cheating is really very minimal right now at college athletics.

I don't think you are going to see—I think you can have investigations all you want, and you are not going to see a lot of real big, blatant violations. I think the fact that the presidents are more involved, they are doing a much better job, I don't think you will see a lot of that.

I think what Dale has said is very true. The rules are such that everybody is in a violation practically every single day. As Joe Paterno said in "USA Today," I read that this football season. "I violate a rule every day. I just don't know which ones." As Dick Schultz, the President of the NACC, I read recently there were violations of Virginia. He said he didn't know he violated the rules. I am sure he didn't.

We are all caught up into that because they have the one rule, the extra benefit rule that covers anything and it can be interpreted anyway they want. They have a legislative committee, if there is a certain university, the enforcement staff can say I don't think that is any extra benefit. If it is somebody else, that is certainly an extra benefit.

The extra benefit can be anything, as far as giving a kid a ride to church, giving a kid a ride in the rain, as far as buying a kid a coat. Anything can be an extra benefit, as far as a student tutor, giving a kid a ride.

We are experiencing that one right now. So an extra benefit can be far-reaching. I think that is the real problem with the NCAA, is the fact that everybody is guilty because of that extra benefit rule.

The only way you can never be guilty, if you follow that rule, is if you coach a kid and you never see him again until 3 o'clock the next day. But if you have any interaction—a typical would be like we have two NBA teams play at our place, in our own gymnasium. Our kids come in the back door. When we find out, they can't come in the back door. That is a violation.

A couple of players on a team left them tickets. Well, that is a violation. The only guys who couldn't go to the game—not the only ones—but our players couldn't go to the fame in their own gymnasium.

I think there has to be something put in there that can identify—I think that rule has to be identified. I think because of that rule, you see such an intimidation by coaches and presidents and athletic directors.

Everybody is scared to death. The worst news you can get is that the NCAA called today. You hear that and everybody is petrified.

I don't think that is right. I think it should be an organization that you can work with, that you can say, call them on the phone, you can work with them. Right now it is a reign of terror.

Mr. BROWN. Could I, Mr. Oxley, give you two stories? It is almost an impossible working situation. That is where Congress has to help us. We have to burn that big, heavy book.

I don't know about you, but the 10 Commandments are written on a three-by-five card, and I have broken a few of those. Here is a book, 477 pages; we have to burn this book.

You can help us all by saying there is no immunity granted. If you break a rule, blatantly violate a rule—and I am talking about changing a transcript, giving him a car, giving him money, having someone take a test for him, your career is over as an athlete or as a coach.

Here is the frustration, if I could share these two stories: When I knew I was going to fight this thing, we had a player who had cancer. We were in Alaska and he had pain. We didn't play him.

We got home; he was loaded with cancer. He was a reserve team in 1981. He had 1 month to live. They took him back to St. Louis. He fought for 11 months.

Finally his mother called me near the end and said they are having one last fund raiser for him up in St. Louis so they can have money to go back to a center in Houston to fight this cancer; we are going to have celebrities. He wants to see his three best friends before he dies.

The Governor of the State at the time said I could use his plane and take the guys. I called the NCAA and secretary and explained the situation. The boy is dying, they are raising money, he wants to see these three kids. You can't take him.

Like a thief in the night—and I resent this because I am not one—I had to find out when they had this Red-eye flight, find out how much it cost to fly up there, stay in a motel and for their food. I called all three of them individually in the office. I pulled my blinds and I felt like a crook. I gave them each money in this brown envelope so they could fly up there; that is totally wrong.

Just this past January we had a player on the team on academic probation. I gave his father my promise I would do everything to motivate his son academically. His father sent him because his father didn't do well academically. He got on probation.

My wife is a retired university professor. I told him pack his bag.

January when he came back, you are moving into our house, you are getting up with me, my wife is going to have study hall. You will have bed check with me.

I was denied that opportunity. He could not come to my house. We can let him flunk out but can display no human dignity. That is stupid. That is what this book is, is stupid. I don't care who wrote it, it is stupid.

You all have got to help us. It is our last hope. If you don't, 20 years from now Tom won't have as much white hair, he will have dyed it a little bit. We will be back here again doing the same thing.

Mr. **Tarkanian**. I have never met this person, but the University of Maryland had a great basketball player a few years ago who came from junior college and flunked out of school. The only way he can get back in school and play his senior year is he had to go to junior college and raise his grade point average. He took two night classes at the junior college quite a bit away from his home.

The assistant coach from Maryland—I don't know his name, but I read the story—in addition to doing his full-time work at the University of Maryland, he took two nights a week to drive this kid to junior college and actually stayed there with him in class so this kid could get his grades so he could get re-enrolled at the University of Maryland, which I thought was a wonderful gesture on his part. That kid got fired.

He has been labeled a cheater. He can never get another job in college coaching because he drove this kid to junior college so that he could get his grades up.

To me, I think that system should have been applauded, instead, he is labeled a cheater.

Mr. **McMillen** [presiding]. The gentleman's time has expired.

On that note, the Chairman of the Board of the University of Maryland was quoted in the Washington Post. He said, "I told my coaches to drive my kids to class any day of the year."

The point, I think, being is that there are a lot of arcane, ridiculous rules. I know Dick Schultz is trying to move this bureaucracy in, I think, in a forthright fashion.

There are a lot of rules. I am not sure if this rule has been changed. It is hard to keep up with all of them. Things I did at the University of Maryland, when I went to have lunch with the president of the university and talk about a Rhodes Scholarship, would be considered a violation of the NCAA rules. There is all kinds of things like that that I think beg for reform.

My question to you, Dale, earlier in your testimony you said you don't think Congress should be involved. On the other hand, you plead for us to be involved.

Mr. **Brown**. I was jumped on that immediately. What I mean, everybody but the guys lighting up the Bunsen burners in the chemistry lab and the custodians are looking at us. We got faculty represents, the media, the NCAA, the secretary.

It is like, you know, I am saying I think we can solve our own problems by prodding from this committee today. The Knight Commission, I also went to that, and I think they did a good job. I think we could have done better.

I mean not to get into the inner-workings. We need change now by the Congress saying to the presidents, whoever did this, let's burn this book and start all over again.

Mr. **McMillen**. They said that in 1978. It has taken 13 years to form an advisory commission. That was one of the clear-cut recommendations back in the 1978 oversight hearings.

Do you really have faith that this system is going to happen unless we statutorily change it?

Mr. **Brown**. There are cohorts of mine that don't have that faith. Even a couple of the writers came up, and my houseboy, "Did Dick Schultz tell me to say this? Did my president tell me to shut up?"

If you knew me, you knew that wouldn't be true. The answer is no. Maybe I am putting too much faith in one man. I don't think he can do it alone.

President Roselle here, I don't know where he has been, but he is on another planet when it comes to what is going on in college athletics. Remember, Kentucky was guilty, too, when he said they were treated fairly.

I don't think a change can be made until there is pressure put on. Maybe what has to happen, maybe the split eventually has to occur.

Let's start it all over again. Let the top schools go their way, and the 200 that don't want to be in Division I go their way. Maybe that is the answer.

Mr. **McMillen**. Back in 1978, you refer to this, that the House subcommittee in their report said institutions were cooperative, even anxious to tell their stories, but they were loath to be identified; is that a fact?

Schools are afraid to tell the truth because there is a gag rule in effect here, that if you talk you may be penalized?

Mr. **Tarkanian**. Coaches, athletic directors, they are still afraid because they fear the retribution that can come back if you make a comment. My problems started by writing three nasty letters.

Certainly I wish I had not written those letters. You like to think in our country you can if you feel that is right.

Mr. **Brown**. I will give you a specific—there are some people here from the "Washington Post" today. Nearly 20 years ago Leonard Shapiro and his cohort wrote a book called "Athletes for Sale."

I was quoted in the book. One of the things I said is the same thing I said to you today for no selfish reason.

I feel sorry for players and coaches being ostracized by this system. I said there has to be a revolution within the NCAA. You used to call there and you would think you called the Kremlin by mistake. Now that has changed.

I called for an interpretation, Congressman McMillen. Warren Brown as working there at this time.

Before I hung up he said, by the way, when are you going to be back in your office? I told him. I said, why?

He said, well, Walter Byers wants to talk to you about that statement you made about there needs to be a revolution in the NCAA. I said, when you see him, tell him the initials in this country are U.S.A., not U.S.S.R. That started a long love affair with me until the witch hunt finally ended. That is not paranoia.

I am not rolling balls under the table here in my hand or anything else. That is a fact; that has to end.

There is a totally different man running the position. Again, I don't mean to put the blame on one man either.

Mr. **McMillen**. I think Dick Schultz is trying to move in the right direction.

What about the argument that this whole process will be tied up in the courts and we will never be able to enforce rule violators.

I am not an apologist for anybody breaking the rules as long as they are easy rules and not arcane. Wouldn't this encumber the process?

Mr. **Brown**. That is a problem. I would use this as an analogy, and I am not trying to be cavalier with this analogy. You get treated worse in America for speeding and double parking than you do rape and murder. You can get off rape and murder. Put your hands on the hood, and it is like I am a drug dealer.

Guilty parties must be penalized. There are people in college coaching cheating. Not bending the rules. It is called cheating.

They have to be penalized, and so do the athletes. For the coaches who are not cheating, that is a smaller percentage.

It is like if some Congressman gets into some scandal, all of you are indicted like we are in coaching often. The problem is immunity is granted to athletes. Don't forget the athletes either.

They are not as dumb as they would like to pretend. If an athlete knows he has taken an automobile, his career should be done. The one thing I would be concerned about, gentlemen, is it going to get tied up in the courts? Is it going to be like an average murderer in this country who spends 9 years on death row and then he is out? I would hate to see that happen.

Mr. **Tarkanian**. I know the NCAA says we don't have subpoena power, and that is why they can't give basic due process, even administrative due process. However, I would like to point out that according to the NCAA rules, if you don't cooperate—in essence, to a university member or an athlete they have something every bit as strong as subpoena power. You have to cooperate.

If they ask for your own personal telephone records, you have to give them everything or else you are not cooperating, which is a more serious violation than anything else.

If you are caught lying, you are charged with unethical conduct, which, again, is more serious than anything else. In essence, for an athlete or a coach or any employee of the university, they really and truly do have subpoena power.

Mr. **McMillen**. The other argument is there are Federal agencies that don't have subpoena power that offer full due process. I think that is a little bit of a sham.

Let me close this because we have to go to the other panel.

What is the biggest problem in college sports?

Real simple, real quick, what do you think is the biggest problem?

Mr. **Brown**. We have now been knighted with three things. We have to win as coaches, we have got to make money.

Now we have to make sure everybody graduates. Fourth, I am sure it is just around the corner, it is tremendous pressure.

Mr. **McMillen**. What is the biggest problem?

Mr. **Tarkanian**. With me it is the NCAA, period.

Mr. **McMillen**. Presidential control, should there be more direct presidential control at the NCAA?

Mr. **Brown**. Yes, presidential control that is informed. President Roselle is not informed, in my opinion.

Mr. **Tarkanian**. I agree totally. I believe the presidents themselves do not want to stand up and make a comment that is going to infuriate the NCAA.

I don't think you can say the presidents themselves can solve all the problems. I think you have to solve the problem. I think it has to come from the Federal Government.

Mr. **McMillen**. If you were a voting member of the NCAA back when Derrick Bach offered his presidential board of governance of the NCAA, would you have voted for that?

Mr. **Brown**. Yes.

Mr. **Tarkanian**. Yes.

Mr. **McMillen**. We thank you for your testimony.

It certainly has been very enlightening.

Our next panel, the Honorable Wint Winter, a Member of the Kansas State Senate. Mr. Burton Brody, Professor of Law, University of Denver. The Honorable James E. King, Member, Florida House of Representatives and Mr. Don Yaeger.

I was interested in two coaches and their comments on control in the NCAA. Here both coaches came on the record and said they were in favor of presidential control.

We have another vote.

I am going to begin this and then I hope the chairwoman will be back to take over. Why don't we begin with Mr. Yaeger.

STATEMENTS OF DON YAEGER, AUTHOR, TALLAHASSEE, FL.; HON. WINT WINTER, JR., MEMBER, KANSAS STATE SENATE; HON. JAMES E. KING, JR., MEMBER, FLORIDA HOUSE OF REPRESENTATIVES; AND BURTON F. BRODY, PROFESSOR OF LAW, UNIVERSITY OF DENVER

Mr. **Yaeger**. I am honored by your invitation to testify here today, especially as I look around the room and see so many others who are more qualified than myself to discuss the topic, "Who is in Control of Intercollegiate Athletics."

Like many of you, it wasn't so long ago that I thought the answer to that question was simple—the National Collegiate Athletic Association. Until 4 years ago, my connection and knowledge of college athletics was solely as an interested observer.

But in 1987, I helped put together a conference on investigative sports reporting. At that conference, several writers suggested one of the greatest untold stories today as NCAA enforcement. Those writers told horror stories of students and athletes whose "rights" were violated by the NCAA's system of justice.

A year later, the idea of investigating the investigators still was appealing to me. Fortunately, the editors at the newspaper where I was working agreed.

They allowed me to take 6 months, travel the country and review 54 NCAA cases for a series of stories that eventually provided the background for the book "Undue Process."

I tell you all that because I feel it is important to note I did not have a negative impression of the NCAA, nor was I predisposed to any opinion of the NCAA, before I began looking at this organization.

From the outset, I focused my attention on the—not the personalities—used by the NCAA to enforce its rules. Many of those I interviewed had damaging things to say about the personal credibility of the staff at the NCAA.

But I chose not to let those personal attacks become the issue. It would be very easy for all sides in this debate to take personal shots at one another, but that won't change this system. And change the system we must.

What I found as I was investigating the NCAA's enforcement program was shocking. Here we have a system that can ruin the lives of students and coaches, can levy multi-million dollar sanctions against our public universities, yet is so one-sided it has a rule prohibiting the tape recording of interviews in cases.

It is so one-sided it doesn't guarantee you the right to face your accuser. It is so one-sided that it doesn't allow you to receive a copy of your own statement. It is so one-sided—and I think this says it all—that in 40 years of enforcing its rules, the NCAA has a 100-percent conviction rate and no one has ever won an appeal. Where else in America can a body with such power claim such numbers?

There are other issues of concern regarding NCAA enforcement: the enforcement division is terribly understaffed; the current NCAA budget includes 15 investigator positions to police 800-plus universities each of which operate multi-sport athletic programs. This causes many investigations to drag on—some as long as 4 years.

The enforcement staff is terribly underpaid. As a result of poor salaries, investigators routinely leave after 18 to 24 months, often to take much higher paying jobs at institutions that are under investigation.

When a regulator goes to work for the regulated on Wall Street, we start to wonder. The same questions should be asked here.

That turnover of investigators exacerbates the problems created when the NCAA refuses to tape record interviews. Now, staff members who may not have even been working for the NCAA at the time an interview occurred, are forced to use the notes of an investigator who is long gone to prosecute a case. Thus, you are not allowed to face your accuser; you are not even allowed to face an accurate record of what your accuser said about you.

The NCAA will tell you that it recently agreed to allow its investigators to experiment with using tape recorders. I will tell you that the only reason they have gone that far is because of the pressure being applied by legislators and others who can't believe we have continued to let this system exist.

The NCAA will tell you that it recently appointed a committee to study enforcement, and that committee, not Congress, should recommend changes. I will tell you that 13 years ago, Congress investigated the NCAA and recommended the organization establish a blue ribbon panel—much like the one recently appointed—to look at enforcement.

The NCAA refused to appoint such a committee then. And it is doing so now, in my opinion, to get Congress and State legislators off its back.

Please don't fall for these promises. Your interest has already sparked concern and change at the NCAA.

Please keep that interest alive until, as one Congressman said in 1978, "the organization that encourages fair play in college athletics starts playing fair."

Mrs. COLLINS. Mr. Winter.

STATEMENT OF HON. WINT WINTER, JR.

Mr. WINTER. Thank you, Madam Chair for the opportunity to present this testimony to you. My name is Wint Winter, Jr. I am a State Senator and lawyer from Kansas.

I would like to share with you some thoughts about my background in this matter, some reflections on the facts on the higher education system of NCAA enforcement actions.

Finally, I think the issue most important to you all here and to us in State legislatures, why is it that we should get involved in this matter when we have other important things to do?

I have long been interested in reform in the NCAA. It started in 1971 when I attended the University of Kansas on a football scholarship.

At my very first meeting as a freshman, the head coach announced, his eyes moist and his voice cracking, that the football program had been placed on probation by the NCAA.

He explained that the people who were supposed to have been guilty were long gone from the university, but the remaining innocent coaches, my teammates and I had to suffer the punishment. I had come to the university to be educated and to learn about the world but no one could explain to me then or now how that result was just or equitable.

Later in my college career, a gifted track athlete was prohibited from competing because he had accepted a Federal Pell Grant for which he was entirely eligible as a low-income student. It was not fair that I had some money to cover living costs not paid for by an athletic scholarship because my parents could afford to help me out, while the NCAA denied Cliff Wiley and my low-income football teammates similar aid.

My interest in this subject continued during my law school studies while, as an editor of the University of Kansas Law Review, I researched and wrote an article which took the position that the NCAA denied student athletes the basic rights guaranteed by the U.S. Constitution and further argued that the NCAA constituted "State action" and was thus subject to the due process requirements of the Constitution. Fortunately, my constitutional law grade was not changed after the U.S. Supreme Court rejected the position I had taken on a 5-4 vote in the recent Tarkanian case.

While I was convinced at that time—both morally and legally—that the NCAA was unfair, inequitable and violative of fundamental constitutional rights, I did not propose legislative action to correct the problem. It was then my belief and hope that the NCAA would recognize the need to change and that reform would come from within. Unfortunately, I was wrong again.

For that reason I along with six other Senators introduced a bill in the Kansas Senate which is very simple. It stated the NCAA must follow the same rules required by the U.S. Constitution of Education Institutions in the State of Kansas.

The NCAA was disturbed by the bill and they opposed it, but it passed the Senate unanimously and now awaits action in the House. It would apply not only in Kansas but in all 50 States because of the fact that the NCAA is headquartered in the State of Kansas and because it asks for and received an exemption for State tax as an educational institution.

I must note, I think it is revealing about the NCAA's attitude to note that at the same time the NCAA was arguing before the U.S. Supreme Court that it was not required to follow due process procedures because it was not an education institution or a State actor for other reasons, it was at the very same time arguing just the opposite before the Kansas Supreme Court when it applied for and received an exemption from Kansas tax because it argued successfully it was an educational institution.

It is ironic that NCAA enjoys the tax exemption rights of an educational institution in Kansas while it ignores the constitutional duty required of all other educational institutions to afford student athletes and the public constitutional safeguards. There is no question about the fact that when the NCAA sanctions hits an institution it loses hundreds of thousands of and perhaps millions of dollars and that loss shows up in the classroom. It can't help but show up in reduced educational quality, and in loss to taxpayers as a whole.

While others have talked about the specific problems, the biggest problem that I have is with respect to the student athletes. Why is it that the guilty go free and the NCAA continues their procedure of punishing the innocent, the student athletes.

For instance, when the NCAA announced the University at Las Vegas, Nevada, was on probation, many properly argued that the players—who suffered the most severe punishment—were only 3 years old at the item of the alleged violation.

The answer to that criticism by the NCAA was simply to delay the punishment for 1 year so that those punished were not there but 2 years old at the time of the alleged transgressions.

Finally, why I think change would not come from within. I believe it is important that legislators and Congress take action in this regard.

The evidence is overwhelming that the NCAA will not change from within without governmental mandate. Even the former executive of the NCAA, Mr. Byers, argues that the NCAA must be drastically revised and that it lacks the respect required to perform credible enforcement following the much publicized "flip-flop" of the UNLV case.

If, as they suggest, the NCAA is not opposed to due process and they do now, in fact, properly protect member institutions, coaches and student athletes, it is difficult for me to understand why the NCAA would be threatened by the requirement that it comply with our Nation's Constitution.

Why is the NCAA disturbed with the need to provide student athletes, coaches and the public the same rights as are provided to all persons in our courts when action is taken by the government?

[The prepared statement of Mr. Winter follows:]

STATEMENT OF HON. WINT WINTER, JR., MEMBER, KANSAS STATE SENATE

Madam Chair, members of the subcommittee, thank you for the opportunity to present this testimony. My name is Wint Winter, Jr., I am a State senator and lawyer from Kansas. I appear today to urge you to conduct more extensive hearings and ultimately to enact legislation which will reform the governance of intercollegiate athletics and ensure integrity in our higher education system.

I have long been interested in reform in the National Collegiate Athletic Association (NCAA). In 1971, I attended the University of Kansas on a football scholarship. I have always remembered my first meeting of the KU football team as a freshman when the head coach—his eyes moist and voice cracking announced that he had just been informed that the football program had been placed on "probation" by the NCAA and that our team was prohibited from competing on TV or in post-season bowl games. He explained that the people who were supposed to have been guilty (assistant coaches) were gone from the University but the remaining innocent coaches, my teammates and I had to suffer the punishment. I had come to the University to be educated and to learn about the world but no one could explain to me then or now how that result was just or equitable.

Later in my college career, a gifted track athlete was prohibited from competing because he had accepted a Federal Pell grant for which he was entirely eligible as a low-income student. It did not seem fair or equitable to me that the NCAA could prohibit a low-income student athlete such as Cliff Wiley from receiving the assistance for which he was eligible simply because he had accepted an athletic scholarship. It was not fair that I had some money to cover living costs not paid for by an athletic scholarship because my parents could afford to help me out while the NCAA denied Cliff Wiley and my low-income football teammates similar aid.

My interest in this subject continued during my law school studies while, as an Editor of the University of Kansas Law Review, I researched and wrote an article which took the position that the NCAA denied student athletes the basic rights guaranteed by the U.S. Constitution and further argued that the NCAA constituted "State action" and was thus subject to the due process requirements of the Constitution. Fortunately, my constitutional law grade was not changed after the U.S. Supreme Court rejected the position I had taken on a 5-4 vote in the recent Tarkanian case. While I was convinced at that time both morally and legally—that the NCAA was unfair, inequitable and violative of fundamental constitutional rights, I did not propose legislative action to correct the problem. It was then my belief and hope that the NCAA would recognize the need to change and that reform would come from within. Unfortunately, I was wrong again.

My personal experience as a student athlete, my law school study and my obligation to my constituents as a legislator establish what I believe is a genuine good faith basis for expression of concern regarding the NCAA and for the introduction in the Kansas State Senate of corrective legislation. Senate Bill 2341 the "Athletic Association Procedures Act" requires that the NCAA and other similar organizations provide basic fundamental protections such as due process for student athletes and others. Unfortunately, the NCAA's apparent attitude of indifference and arrogance on this subject was displayed when, shortly after this legislation was introduced, a representative of the NCAA suggested that those of us in State legislatures and Congress who express an interest in NCAA reform might be motivated more by some preserved need to seek publicity than by public service. This attitude expresses a continuing indifference and insensitivity on the part of the NCAA to the need for reform in intercollegiate athletics.

The authors of the U.S. Constitution understood the need to protect the individual rights of due process and equal protection which ensure government cannot violate the civil liberties of its citizens. These principles stand today as the most important pillars of our legal system.

But the Constitution only protects against government action, not the action of certain private, voluntary organizations. Even if the organization is closely tied to the State, a majority of its members are State institutions and those institutions generate the bulk of its revenue from taxpayer supported facilities, a private organization can ignore due process. The organization can investigate, prosecute, convict and penalize its members according to its own capricious measure.

The NCAA is just such a group. Individuals and institutions under review by the NCAA have limited access to evidence used against them, have no real means to appeal decisions and, most importantly, are subject to an incredible penalty system which punishes the innocent student athlete, often lets free the guilty and flip-flops on high profile cases. Voluntary membership or not, the NCAA has too much power and controls the destiny of too many lives without affording its members and the public basic rights. With so much at stake, should the NCAA be allowed to enforce its rules without providing either alleged offenders due process or the "guilty" equal punishment?

I say no. Along with six other senators, I introduced SB 234 in the Kansas Senate to protect students, coaches and the public from this intrusive and unfair practice by the NCAA. Our bill would do nothing to interfere with the NCAA's charter to make and enforce rules for intercollegiate athletics; it would merely hold the NCAA to the same rules required by the U.S. Constitution.The NCAA is disturbed with our bill and opposed it. After hearing compelling testimony from proponents, however, the Kansas Senate passed the bill unanimously and it now awaits hearings in the Kansas House. The bill as written requires the NCAA to follow constitutional protections including due process in its relations with its members and others not only in Kansas but in all 50 States. We believe that the State of Kansas has the legal authority to require the NCAA to comply with constitutional rules in all States due to the fact that the NCAA is headquartered in the State of Kansas and because it requested and received an exemption from State tax as an "educational institution".

It is revealing to note that, at the same time the NCAA was arguing before the U.S. Supreme Court that it was not required to follow due process procedures because it is not an "educational institution", (or a "State actor" for other reasons), it was at the very same time arguing just the opposite before the Kansas Supreme Court when it applied for an exemption from Kansas tax because it argued (successfully) that it was an "educational institution". It is ironic that the NCAA enjoys the tax exemption rights of an "educational institutional institution" in Kansas while it ignores the constitutional duties required of all other "educational institutions" to afford student athletes and the public constitutional safeguards.

Others will provide much more detail than I regarding the specific violations of constitutional rights by the NCAA. I must mention, however, that when the NCAA denies an educational institution the hundreds of thousands of dollars of revenue to which it is entitled absent an NCAA finding of "guilt", educational quality is strained elsewhere in the institution and taxpayers indirectly suffer from the loss of funds to the institution as a whole. The most fundamental of all abuses by the NCAA in the unconscionable fact that its punishment procedures allow the guilty to go free while the entirely innocent student athlete is punished. For instance, when the NCAA announced that the University of Nevada-Las Vegas basketball program was on probation, many properly argued that the players (who suffered the most severe punishment) were only 3 years old at the time of the alleged violation. The answer to that criticism by the NCAA was simply to delay the punishment for 1 year so that those punished were not 3 but 2 years old at the time of the alleged transgressions. This and other fundamental inequities continue not withstanding the fact that the NCAA rule book now has grown to 479 pages, complete with such detail as a prohibition against university athletic departments using color stationery letterhead.

It is certainly correct that all of us in government have much more pressing problems to deal with then the NCAA. Likewise, it is important that government not unnecessarily interfere in the workings of private organizations. Following similar hearings by Congress in 1978, it was the hope that the NCAA would change from within. That remained my hope as well after my study of the situation and even following the NCAA enforcement action at the University of Kansas. I did not at that time introduce legislation such as SB 234 which would mandate change.

Unfortunately, the evidence is now overwhelming that the NCAA will not change from within without government mandate. Even the former Executive Director of the NCAA, Walter Byers, argues that the NCAA must be "drastically revised" and that it lacks the respect required to perform credible enforcement following the much publicized "flip-flop" in the UNLV case.

The NCAA's revulsion to reform and its attitude that it is "above the law" and more powerful than State governments was revealed when it recently threatened to kick out schools located in States that passed laws such as SB 234 on the basis that it would create an "uneven playing field" (even though SB 234 on its face requires the NCAA to play by the same rules for all its member institutions). If, as they suggest, the NCAA is not opposed to "due process" and they do now in fact properly protect member institutions, coaches and student athletes, it is difficult to understand why the NCAA would be threatened by the requirement that it comply with our Nation's Constitution. Why is the NCAA so disturbed with the need to provide student athletes, coaches and the public the same rights as are provided to all persons in our courts when action is taken by the government if they do now in fact provide "due process"? How can asking the NCAA to make fair decisions open to public scrutiny possibly harm or offend it?

This arrogant attitude of the NCAA reveals its dark and dictatorial side. The time has long since come for serious reform of this organization which sets itself as above the law of the land. Legislation such as SB 234 and that to be considered by this subcommittee is hardly radical—only to follow the fundamental protections of the U.S. Constitution. It is hard to believe why the NCAA would continue to spend hundreds of thousands of dollars to prevent it from complying with the basic and fundamental law of the land.

In conclusion, it is my opinion that the reform of the NCAA which would best come from within can only result if it is imposed by the States or better yet by Congress in order to avoid the "uneven playing field argument". By its recent threats to take action against institutions from States which pass such laws, the NCAA suggests that it is above the authority not only of State legislatures; but of Congress and even the U.S. Constitution. Without the credible interest of the States and the mandate from Congress, the NCAA will continue to stall reform while innocent student athletes, educational quality and taxpayers continue to be punished by the NCAA's double standard of justice and continuing violations of constitutional rights.

Madam Chair, thank you for the opportunity to appear and present my views. I appreciate the time and attention of the subcommittee.

Mrs. **Collins**. The time of the gentleman has expired.

I am sorry I am going to have to recess again for another 5 or 10 minutes because there is a House vote.

We have 5 minutes to get over.

Mr. **Winter**. Thank you, Madam Chair.

Mrs. **Collins**. Recess for 5 minutes.

[Brief recess.]

Mr. **McMillen** [presiding]. We will resume the hearing.

Mr. Yaeger has testified.

We will now go to Jim King.

STATEMENT OF HON. JAMES E. KING, JR.

Mr. **King**. Thank you.

Since I have already submitted a statement for the record, I thought perhaps rather than reading, what I would do is answer some of the things that have been asked already in an opening statement of my own.

Congressman Lent in his introductory remarks commented it would appear everybody who was here had some axe to grind. Either there were ex-athletes or coaches or came from a school that was under investigation or was penalized.

Let the record show I am a graduate of Florida State University. Let my size show I am neither an "X" or current athlete. Also let me say from a strictly fan citizen point of view, whatever might have happened to the University of Florida, which indeed did go through an investigation, would be viewed by me almost with applause because they are arch rivals.

I say that because the comments I now would make are based on the fact that my axe to grind, if there was one, was that as a member of the Florida House of Representatives and as the sponsor of Florida's Due Process NCAA Bill that passed just in this last session, I viewed it from my charge and my responsibility to the constituency of my State, much as I hope this committee will view the comments being made as a chair charge to the citizens of this Nation.

The NCAA denies the very operation of what we see going on here. All during the day there were hundreds, perhaps, reporters covering what was being said. This was one court reporter.

I will guarantee you that when we view the press clips of what the reporters heard and how they wrote, they will be different, perhaps not in entirety but certainly in some substance from what this court reporter has duly noted.

So is the situation with the NCAA investigation. Quite frankly, I cannot understand, as not an attorney, but as a member of the legislature what is wrong with taking down somebody's testimony verbatim.

I have great difficulty as a parent, imagining my child, if he were so to be charged and alleged that he was guilty, to be sitting in a room where somebody is taking notes on what he thought that was said without ever any proof positive from that point of what was said. When I asked the President of the NCAA, who visited Florida for our hearings, we had personally opposed the due process part of tape recorders or court reporters. I said, what is wrong with that, Mr. Schultz? His answer, I think, says it all. "I really don't know."

And that is the provision that I hope that this Congress can take from what we have done on a statewide basis. I think a lot of what the NCAA has done so far has been as a result of the presumed pressures that they see coming from the States and now from Congress.

I think if there is going to be anything that happens, it will be a continuation of the threat that there is to be change. In Florida the law has been signed. It is now Florida law. You must record.

You must have the right to have an attorney present if you so seek. You must conclude your investigations 2 years after you have filed your initial charge.

Finally, there must be a meaningful appeals process. My provision as a member of the Florida House is simply this: The NCAA has total power. I don't want to take away that power of finding people guilty.

I don't want a single person that is guilty to have his sentence mitigated or that institution's reputation changed.

What I do insist on, though, as a member of the legislative body, is that we meet, make sure that what we are finding guilty are indeed guilty. I can't see how you can do that if there isn't a public record.

I can't see how you can do that if you operate under the auspicious of the existing methods of the NCAA. Will the NCAA make changes internally? Perhaps. But they have made suggestions that they might do that before and haven't.

I would charge you with this final statement. When you consider the reputations of the institutions and the coaches, plus the future lives of the student athletes, the protection of federally-mandated due process and NCAA investigations, it seems not only reasonable, but it seems a long time overdue.

If, in fact, we are to preserve, it must come nationally. It makes no sense to have 50 different State laws. I would be the first one to admit that.

I have no pride of authorship. What I would like Congress to do is to look at Congressman Towns' bill and implement it on a nationwide basis. Provide basic constitutional rights to student athletes, coaches, and the institutions of our States.

Thank you.

[The prepared statement of Mr. King follows:]

STATEMENT OF HON. JAMES E. KING, JR., MEMBER, FLORIDA HOUSE OF REPRESENTATIVES

I thank you for this opportunity to discuss an institution and a process that, in my opinion, has grown out of control. I speak of the National Collegiate Athletic Association and, more specifically, its enforcement procedures.

My interest in the NCAA's due process and enforcement provisions was peaked several years ago when the University of Florida fell under NCAA scrutiny. For the record, let me state here and now that I am a graduate of Florida State University, the major rival of the University of Florida. As a Seminole booster, I shed few tears when I read that the Gators are having problems. I tell you this because it has become the NCAA's standard line that efforts being made by State legislatures to demand due process in NCAA enforcement are being led by disgruntled lawmakers whose universities have been caught. Nothing could be further from the truth in this case. As elected officials, it is our responsibility to protect the reputations both of our institutions and our citizens. It is from that vantage point that I became interested in the NCAA and justice. I watched as the NCAA's investigation of the University of Florida dragged on in excess of 4 years. I watched as the student athletes and coaches who participated in those violations moved on, leaving those who had nothing to do with the case to suffer the penalties. I watched as booster, television and grant dollars, which otherwise would have flowed into that university, became more difficult to obtain. And I realized that this issue isn't just about athletics. The focus must be on our institutions of higher learning—funded by Federal and State tax dollars—and the un-elected body that sits in judgment of them.

Once the University of Florida's case was complete and its penalty handed down, the university administration opted to appeal the decision. To do so, the university had to appeal to the NCAA Council, the same body that appoints the Committee on Infractions that had just judged them guilty. Not surprisingly, the university lost. It is not surprising because no one has ever won an appeal to the NCAA. That, too, struck as more than a bit unfair. Even our own U.S. Supreme Court has, on occasion, admitted its rulings might have been in error and reversed itself. Could the NCAA really be so judicially perfect?

The more I read, the more I became convinced this system was going unchecked. Then came the Supreme Court's 5-4 decision in the NCAA v. Tarkanian. By ruling that the NCAA was not a "State actor," the could held that the NCAA—despite possessing the power to ban State employees from coaching, and State citizens from participating in booster organizations, and State athletes from competing—did not have to offer simple due process to those under investigation. As a result, I decided, in 1990, to file a bill guaranteeing those rights to the citizens of my State. On the last night of the legislative session, the Chancellor of the State university system—at the NCAA's request—asked me to "hold off 1 year. Give the NCAA time to change its ways," I was told. "More importantly, don't pass this bill while the University of Florida was still under investigation, (as it was at the time)," he said. That attitude convinced me that I was doing the right thing. Why should an entire university system fear a "voluntary" association? And what could the NCAA possibly have against due process? Still, I did as requested and waited a year. The NCAA, during that period, did nothing in regard to my concerns.

When the bill was filed again this spring, the support it received was absolutely overwhelming. More than 80 co-sponsors signed on in the 120-member house. It passed 111-5 in the House and 30-0 in the Senate. There was a reason for that great support. As more and more members became aware of NCAA injustices, they couldn't believe that a society that prides itself so mightily on due process protection would allow a system like this to persist. The thought of these actions seemed so un-American in nature as to be truly alarming.

I'd like to make one very important point here, and it relates back to the question of motives. By filing and passing this bill, I am not at all suggesting that I want the guilty to be found less guilty. I am not at all suggesting that I want cheaters to prosper from their acts. I simply want the system that judges them guilty to allow them the same basic rights we give others who face the loss of their livelihood and their future. In Florida, a barber who has given you a bad haircut receives more due process protection if you file a complaint than does a coach accused by a disgruntled former player. That's simply not right. Additionally, there needs to be a true and meaningful appeals process . . . if for no other reason than to act as a check and balance against the original judgment . . . no one is perfect, in spite of the NCAA "record".

Finally, let me say that while I'm very proud of the bill we passed in Florida and the protection it gives our citizens, I have no pride of authorship. I can easily see the potential problems that could be caused by the passage of 50 bills, State by State, even if the intent of each bill is the same. That's why I'm here today. I hope Congress will take it upon itself to set a national standard. I hope you will, at the conclusion of these hearings, recommend the passage of Representative Towns' bill. I believe that the goal of that bill, like the one I passed in Florida, is not to inhibit the NCAA, but rather to make its decisions undeniably fair.

Thank you very much for your time.

Mr. McMillen. Thank you.

Our next panelist, Mr. Brody, who I believe was here in 1978.

STATEMENT OF BURTON F. BRODY

Mr. Brody. Yes, I was.

I am happy to be back, but not for this cause. I think I would rather have come back for something else.

I am, as the Congressman noted, Burton Brody. I am a Professor of law at the University of Denver.

I have been, I was the faculty representative from the University of Denver to the NCAA for 5 or 6 years. During that time I also served as chairman of the Western Collegiate Hockey Association, a major hockey conference in this country.

However, I would like the record to show that the credential I am proudest of today is the fact that I am a graduate of Delano Grammar School and Marshall High School, which I believe are in the heart of the chairwoman's district in Chicago.

I would like to thank you for conducting these hearings and permitting me to participate. Your interest is heartening because the NCAA enforcement practices are unfair, unjust, heavy-handed and vindictive.

Those enforcement practices are so poor that they serve neither the ends of justice nor the goals of the association itself. The NCAA, and you heard them do it this morning, dismisses critics of its procedures as whining cheaters who have been caught and appropriately punished.

But because NCAA hearings are closed, only those who have been subjected to them truly understand the process.

Professor Edmond Cahn in his book, "The Sense of Injustice," describes justice as the active process of remedies as that which would arouse the sense of justice. Every school and individual subjected to the NCAA enforcement had its sense of injustice highly aroused.

Until today I never heard of anybody going through that process who believed they were fairly treated or that justice was done.

This morning President Roselle expressed the opposite view for the first time. But I would like the record to show that he said that

Kentucky had gone through all the steps of due process required of it as a State institution before they ever came to the NCAA Infractions Committee. I think that is why he has a different view of the subject.

The NCAA enforcement staff defends the enforcement program by pointing out there is wide-spread cheating in college athletics. They justify the current procedures as the swift and sure means of finding out and punishing cheaters.

In my 1978 testimony here in Congress, I observed that the appropriate response to anarchy has never been totalitarianism, nor the appropriate response to evil and immoral adjudication and excessive punishment.

The truth of that observation is born out by the fact that in the 13 years since without meaningful change in the NCAA procedures, cheating has, in fact, increased. Cheating in athletics brings the entire higher education community into disrepute.

Ironically the enforcement procedures of the NCAA are so oppressive that the cheaters more often than not are pitied rather than condemned. I believe it is time for NCAA enforcement to give fairness, common decency and justice a chance.

The NCAA will not reform itself. It has had ample opportunity to add elements of due process to its enforcement program and has not done so.

It has had 13 years to follow the admonition of the majority of Congresswoman Collin's subcommittee and has done as little as possible.

I submitted a proposal to the 1979 convention which would have added at least 28 elements of due process to NCAA enforcement. My proposal was resoundingly defeated.

I firmly believe that if change is to come, it will come only in response to legislative pressure. I believe that is true because of the internal and political dynamics of the association. They will do as little as necessary to get by.

I urge you and your colleagues to enact legislation that will require the NCAA to adopt an enforcement process that meets the national, meets our national conceptions of fairness and due process. I believe it is necessary to separate the adjudication of NCAA violations from their investigations.

I think we need clear notice of charges. I think we need truly cooperative fact development of discovery. I think we need a system whereby the credibility of evidence in witnesses can be tested along with the right to present and have considered evidence of innocence. That evidence to be presented by the same methods as the staff uses to present its evidence. I think sanctions should be fair. I believe that similar violations should be punished in a similar way.

Punishment should focus on the transgressor and those knowingly benefiting from violations. The policy favoring institutional sanctions should be administered in a way that punishes the guilty, not their innocent colleagues or successors.

Finally, I feel an effective right to appeal based on an accurate and complete transcript of hearings is important. There can be no effective right to appeal without an accurate transcript.

It has never been in my mind a question of how much due process the NCAA must grant. Rather, the question is how much due process ought the association of institutions of higher education grant its students, members and colleagues.

It seems to me that in the arena of college athletics that affects so many lives and molds the public perception of higher education, the processes by which decisions are made are as important as the results.

In my 1978 testimony, I pointed out that NCAA enforcement is cooperative only in the same sense that ancient Rome's system of capital punishment was cooperative. The condemned is expected to carry his cross to the crucifix.

I noted D.U.'s Stations of the Cross, were a series of luxury hotels I observed when the NCAA does it to you, at least they take you to a nice place.

Finally, I asked whether in our particular case they would respect us in the morning. I can only hope these hearings and the work of your committee are the dawn of the morning that will hear the NCAA at last express its respect for those the Infractions Committee has done it to.

The respect we seek is the respect for fairness and the recognition that the most effective enforcement program is a just enforcement program. I could not go back to my classes in the fall and face my students and talk about justice, talk about fairness and talk about ethical conduct, if I did not take the opportunity to come here and make these remarks to you today.

Thank you very much for inviting me.

[The prepared statement of Mr. Brody follows. Attachments to Mr. Brody's prepared statement are retained in the subcommittee files.]

STATEMENT OF
Professor Burton F. Brody
University of Denver, College Of Law

To

THE UNITED STATES HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION AND COMPETITIVENESS

Madame Chairwoman and Members of The Subcommittee:

Thank you very much for conducting these hearings and permitting me to participate in them. As an educator who has worked in the conduct of intercollegiate athletics, I am grateful that you and your colleagues are addressing the poor treatment individuals and institutions receive at the hands of the National Collegiate Athletic Association's enforcement program.

Intercollegiate athletics are a billion dollar business. The travel and lodging expenditures made by college sports fans in following their teams around the country must be in the hundreds of millions of dollars. And the monies spent for souvenirs and clothing to identify with the various universities' teams must also total in the millions. It is tragic but true that many Americans get their entire image and perception of higher education from the sports pages; sadly, at too many schools athletic success or failure has a direct impact on applications for admission. And despite the fact that one of the clear goals of NCAA regulation is to foster and maintain athletic competitiveness, those who follow college sports know that a certain few schools dominate in each of the sports. That consistent success is often created by violations of NCAA rules, and thus the American public too often reads and hears about the work of the NCAA enforcement program.

NCAA enforcement practices are so poor that they serve neither the ends of justice nor the goals of the Association itself. The enforcement program is a parody of justice; it embarrasses higher education. In the almost twenty years I have studied the process, I have not spoken with anyone who has dealt with the enforcement program who was not angered by the treatment received; nor have I read about any enforcement proceedings where the parties felt justice was done. I am grateful for your efforts because I know from firsthand experience that the traditions and internal momentum of the NCAA prevent any meaningful reform of the enforcement program coming from within the organization.

In 1978, I testified before another Subcommittee of the House of Representatives on this same subject. I have recently read the statement I submitted to that Subcommittee and sadly the views I expressed then are still pertinent. Therefore I am submitting a photocopy of the transcript of that statement as Attachment 1 and incorporating those remarks as part of this statement. I said then, and still believe to be true today:

> [T]he practices and procedures of the Infractions Committee are unfair, unjust, arbitrary and heavy-handed. The enforcement program, as I have come to know it, is without simple decency and fundamental fairness. It provides none, and I emphasize that, none of the safeguards knowledgeable United States citizens expect in any dispute resolution system.

At those same hearings I described the cooperative nature of NCAA investigations by saying:

> The NCAA's Enforcement Program is cooperative only in the same sense ancient Rome's system of capital punishment was cooperative -- the condemned is expected to carry his cross to the crucifixion. It is worth noting that D.U.'s "stations of the cross" were the Coronado Beach Hotel, the Crown Center Hotel and the Nordic Hills Resort. I am constrained to observe that when the NCAA does it to you, they take you to a nice place. Whether in our particular case they will respect us in the morning, remains to be seen.

Fortunately, I have not been involved in another infractions hearing since the proceedings I described in 1978. However everything I have seen and heard about the infractions process since my own experience, leads me to believe that nothing much has changed. I can only hope that these hearings and the work of this Subcommittee are the dawn of the morning that will hear the NCAA finally forced to express its respect for all those the Infractions Committee "has done it to". The expression of respect I am looking for is a respect for fairness and the recognition that the most effective enforcement program is a just enforcement program.

The sad fact is that the NCAA will not reform itself; it will have to be forced to reform its enforcement program. It has had ample opportunity to reform itself and no meaningful change has occurred. It has had twelve or thirteen years to make the changes called for in the Report of the earlier House Subcommittee, but has done nothing significant.

At the 1979 NCAA Convention, I drafted and submitted

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Proposition 61, (a copy of which accompanies this statement as Attachment 2) a complete revision of the Enforcement Procedures then in effect. That proposal was an attempt to give appropriate facets of due process, consistent with the needs of the Association, to individuals and institutions charged with violations of NCAA rules consistent with the needs of the Association. Among other things it provided:

(1) Public hearings if the institutions and individuals that might be protected by confidentiality waived that confidentiality.
(2) That a school could be charged with violations committed by a "representative of its athletic interests" (booster), only if it had knowledge that the booster was acting on its behalf.
(3) Separation of the adjudication function from the investigatory function.
(4) Committee supervision of staff investigatory work.
(5) Meaningful right to representation by legal counsel for institutions and individuals under investigation.
(6) Timely and effective notice to all institutions and individuals of the charges against them.
(7) A system of discovery and cooperation that served all parties to the proceedings.
(8) The right of all witnesses to review the staff memoranda of their statements for accuracy and the bar from use of any such statement not so approved.
(9) A limitation on the time investigation of any particular charge could be pursued.
(10) At least 120 days for a school or individual to prepare a defense to charges.
(11) Notice to institutions and individuals of all the evidence the NCAA has of violations committed by the individual or the institution.
(12) An NCAA enforcement staff member to assist, if requested, the institution in preparing its defense.
(13) Negotiated corrective action for schools if individuals affected by the negotiated corrective action consented or were given institutional due process on the charges against them.
(14) Transcripts of hearings.
(15) Power for the NCAA to require appropriate school employees to appear at hearings.
(16) The right of individuals alleged to have violated NCAA rules to attend and participate in the hearings.
(17) The right of schools to present and have considered mitigating facts.
(18) Limitations on the use of anonymous evidence.
(19) The right to confront and test the credibility of evidence and witnesses.
(20) The right of institutions and individuals to present evidence and witnesses in their defense.

(21) Barring of investigative staff from committee deliberations of guilt or innocence.
(22) Res judicata effect for findings that no violations had occurred, i.e. no double jeopardy.
(23) Institutional hearings for individuals who may be required to be sanctioned in order for the institution to comply with Enforcement Committee orders.
(24) A prohibition on punishing students for the misconduct of recruiters and coaches unless it could be shown that the student was a knowing beneficiary of the wrongful conduct.
(25) A meaningful appeal process.
(26) Fair, and if requested, independent eligibility adjudication of student eligibility questions.
(27) Limiting ineligibility of students to those cases where the student knowingly participated in the violation or with knowledge benefitted from a violation.
(28) A limitation of the NCAA's ability to punish an institution for failing to comply with an NCAA enforcement order because the school was barred from doing so by a valid order of court.

Proposition 61 was overwhelmingly turned down by the "Association in Convention Assembled", the plenary legislative body of the NCAA. Suffice it to say that if Proposition 61 had been adopted we, in all likelihood, would not be assembled here today.

Thus it is my firm belief based on personal experience that the NCAA will not reform its enforcement program from within. It has had ample time and opportunity to do so and has not only failed to act, but has on numerous occasions gone on record as saying there is nothing wrong with its present system. The Association has dismissed complaints about its enforcement program as the whining of cheaters who have been caught and appropriately punished. But only those who have been through the process know it for what it is because the Association's confidentiality policy and closed hearings prevent anyone else from observing its unfairness. Everyone who has had the misfortune of suffering through an investigation, hearing, and appeal is outraged by the experience.

In his book, The Sense of Injustice (Indiana University Press, 1949), Professor Edmond N. Cahn describes justice as the active process of remedying or preventing that which would arouse the sense of injustice. In Professor Cahn's terms, NCAA enforcement is unjust because it arouses the sense of injustice of all who are subjected to it. It arouses the sense of injustice because it is unfair, one-sided, arbitrary, demeaning, insensitive and without any of the procedural safeguards Americans expect when facing charges that can result in serious punishment. If intercollegiate athletics, and through athletics, higher education itself, are to recover the respect of the American public, an NCAA enforcement program that meets generally held conceptions of fairness and due process will have to be created.

It has never been a question of how much due process the NCAA must grant. Rather the question is: How much due process ought an association of institutions of higher education grant its students, members and colleagues? At stake are the integrity of institutions, the professional reputations and careers of colleagues and the education of students. The NCAA must create an enforcement program fair enough that all parties involved in any particular case believe they have been heard, have been able to challenge faulty allegations and have had the evidence they presented objectively assessed. In the workings of an association of institutions of higher education that affects so many lives and the public's perception of higher education, the processes by which decisions are made are as important as the results.

The first step in creating appropriate due process ought to be a revision of the rules governing the conduct of intercollegiate athletics. This year's NCAA Manual is 443 pages of rules, the violation of which can result in serious sanctions. It is too much to expect that athletic administrators, untrained in the law and responsible for the day to day administration of athletic departments, can be confident in compliance with so vast and complex set of rules. Thus, the enforcement staff wields vast power and control because, if they so choose, it is highly likely they can find some violations in every program.

Taking this first step will require a fundamental change in NCAA legislative philosophy. Instead of creating a new rule outlawing each clever circumvention of existing rules, the Association should articulate a few clear principles for the conduct of intercollegiate competition and turn adjudication of violations over to a committee independent of all other bodies within the Association. The spirit of the rules as well as their explicit wording should govern the work of that committee. The committee should be made up of individuals who have knowledge of, but no direct interest in, athletic competition and the personal and institutional benefits derived therefrom.

Additionally, explicit notice of investigations and charges should be given to all institutions and individuals targeted in an investigation and subsequently charged with violations. Mutually cooperative fact development and discovery should be required. All affected parties should be given effective right to counsel at the earliest stages. A system of negotiating corrective action should also be developed.

Hearings should be conducted by an adjudicative committee separate from the committee that authorizes and supervises investigations. The duties of the staff should be similarly separated; those who assist the adjudicative committee cannot participate in investigations and serve as prosecutors. All affected parties should participate and, if they so desire, be represented by independent counsel. And of greatest importance, a system whereby parties may confront and test the credibility of the evidence and witnesses against them must be developed. Parties should also be permitted to submit evidence of their innocence and in mitigation of their conduct by the same methods as the staff submits proof. Consistent with reasonable confidentiality, the hearings should be public to build public confidence in the process. A formal record of all proceedings should be kept and be available to the parties.

Sanctions should be fair; similar cases should be punished similarly. More significantly, punishment should punish the transgressors and those who knowingly benefitted from violations. The policy favoring institutional sanctions should be administered in a way that punishes the guilty, not their innocent colleagues or successors.

An effective appellate process ought to be developed.

An NCAA enforcement program along the lines suggested will begin to restore integrity to intercollegiate athletics because it will build membership and public trust in the enforcement process. But the NCAA will not itself reform the enforcement program because it sincerely believes the current program serves the interest of the membership. The staff takes pride in the fact that it has never lost an infractions hearing. However those who believe in justice and study its operation know that such infallibility more often results from unfairness and arbitrariness than from perfection.

The NCAA Enforcement Staff defends the enforcement program by pointing out that there is widespread cheating in intercollegiate athletics. Therefore they justify the current procedures as the swift and sure means of finding and punishing the cheaters. In my 1978 testimony, I observed that:

> [T]he appropriate response to anarchy has never been totalitarianism; nor is the appropriate response to evil an immoral adjudication and excessive punishment.

The proof of the truth of that observation is that in the thirteen years since, without sufficient and meaningful change in the procedures, cheating has become even more common. Cheating in college athletics is an embarrassment to higher education. It brings the entire higher education community into disrepute. And ironically, the enforcement procedures used to attack it are so poor that the cheaters, more often than not, are pitied rather than condemned.It is time to give fairness, common decency and justice a chance.

I urge you and your colleagues to draft and enact legislation that will require the NCAA to adopt procedures that meet our national perceptions of fairness and due process. The NCAA needs your help; intercollegiate athletics and higher education need your help; and the individuals and institutions affected by the current procedures deserve your help.

Respectfully submitted this 19th day of June, 1991.

Burton F Brody

Burton F. Brody
Professor of Law
University of Denver

Mrs. **Collins**. Mr. Yaeger, I am looking at a flyer called, "Justice Indeed, the NCAA."

It says in here if Joe McCarthy were alive today he would be working for the NCAA. That is quite a statement. Then it goes on to talk about the NCAA being the judge, the jury and the executioner; tell me what they mean by that.

Mr. **Yaeger**. Well, first off, that flyer was produced by a group of folks who are constituents of yours in Illinois. I think the question, the answer to your question is why does the NCAA have that ability to——

Mrs. **Collins**. You are asking a question. My question is what do they mean by the NCAA being the judge, the jury and the executioner? How does it work?

Mr. **Yaeger**. You have a system in which the enforcement department with its investigators go to an Infractions Committee and they say we believe that Dale Brown of the Louisiana State University violated certain rules. We would like permission to investigate. They give a certain amount of what they believe.

The Infractions Committee issues what is called a "preliminary letter of inquiry." In a sense, there is already a feeling that there is a guilt that has been established.

Then they go out, the NCAA does, and investigates that. They then turn over what they investigate to the university and say, now prove to me that you are guilty. Then they come back before the same Infractions Committee that began the whole process, and that Infractions Committee executes them.

I think that is why many people believe that you have a 100-percent conviction rate, as we talked about earlier.

Mrs. **Collins**. Is there any place where the athlete, or the school, or anybody else can appeal a decision by the NCAA?

Mr. **Yaeger**. You can appeal. Unfortunately, that appeal goes to the NCAA council which is significant because the NCAA council appoints the Infractions Committee that will judge the guilt.

So, in essence, you are appealing to the body that has already approved the folks that found you guilty. For them to overturn on appeal would mean their appointments were bad.

Mr. **Brody**. If I could interject? It is not an effective right to appeal because there is no transcript of the hearings conducted by the Infractions Committee.

Mrs. **Collins**. Just somebody's word against somebody else's?

Mr. **Brody**. What there is is a very poor recording of those hearings, but those hearings are conducted in a room this size. There is one tape recorder.

The only way you can review that record is if your institution will pay for you to travel to the NCAA headquarters and you may sit and listen to that very poor quality tape recording and take notes.

There can be, in my judgment as a lawyer, no effective right to appeal when there is no record of the proceedings from which you are trying to appeal.

Mrs. **Collins**. You all seem to agree with that?

The NCAA set itself up as being all things? They do all of it? They investigate; they bring charges; they give penalties and they deny you a fair appeal from what they do?

Mr. **Yaeger**. An important point I think that answers a question you asked an earlier witness, Madam Chairwoman, was the issue of statute of limitations. It was read to you from the NCAA rule book that they have a 4-year statute of limitations from the date that they send you a letter of preliminary inquiry.

But, that letter of preliminary inquiry is only the first time you find out you are under investigation. That investigation can then last, as you have heard several witnesses say today, 4½ and 5 years, which means that by the time you are ultimately adjudged guilty, you are answering sometimes the violations that could be 9 years old.

You get 4 years until the start of the investigation, then it could go on 5 years beyond that.

That is one of the things the State legislation is trying to resolve by limiting the amount of time the NCAA can have from beginning to end of their investigative process.

Mrs. **Collins**. Mr. Winter, in Illinois, the General Assembly passed legislation similar to yours by a vote of 101 to 5, and passed the Senate committee by a vote of 15 to 1. Do you think State laws can regulate an organization like the NCAA?

Mr. **Winter**. I do believe that absent congressional actions that is the only game left in town. I think, as Representative King testified, that is not the best way to proceed.

A question I think that faces all of us in the State legislatures in Congress, why should we get our COG into this fight? We have not wanted to be involved in this; we have not wanted to take the time of our legislative bodies up.

I became convinced that without this intense scrutiny and without mandate, the NCAA will not reform. In the State of Kansas we believe we are in a better position than any other State, that our law will be enforced in all 50 States because, as I testified, they are headquartered in Kansas and they have asked for and received an exemption for treatment as a governmental agency.

They are cutting with one side, both sides of the sword. I guess my, in closing I would say that why is it Congress should act?

Two reasons: Number one, we hope that the current president will make changes, but I don't know why we can take chances or why we should take changes at that.

Second, and more fundamental, why not? What is wrong with due process? What is wrong with the U.S. Constitution? Frankly, I cannot understand how anyone could appear before my subcommittee, my committee or this subcommittee and argue against complying with the U.S. Constitution.

Mrs. **Collins**. Representative King, I am sure you want to respond to that. I want you to also tell me if there are any limitations at all that are on the effect of the State laws? Do you think there are any jurisdictional problems?

Mr. **King**. The question that Senator Winter was answering, it seems ironic when the NCAA came and appeared before our hearings prior to the time that Florida passed its law, the statement was made we are really not, it is not a criminal arena. It is not a civil arena. It is really more of an administrative hearing.

Well, ironically in Florida, and I presume most other States in the Union, an administrative hearing in our State would grant the very provisions of due process that the Florida law includes. Here is the NCAA saying, gee wiz, you guys shouldn't be doing this because it really is an administrative hearing.

In our administrative hearings, the ultimate circumstances with which we are dealing are far less catastrophic than what happens as a result of an NCAA charge to either the student athlete, who must go on whether he becomes a professional athlete or not, with that stigma, to the coach who has his whole life planned behind him or ahead of him.

More importantly, Madam Chair, as we view it in a very parochial sense, the institutions that I am sworn to protect, you know, the stigma that is attached if that institution is unfairly judged guilty is a stigma that goes on for years. Should the States do it?

I would prefer that they not. But if there is not any other dance in town, then at least in Florida we started playing music. The NCAA must know and must sense that because some of the things that they have done recently have come, in my opinion, as a result of the various States, the ground movements, the grassroots movements that seem to be happening for the creation of this blue chip, blue ribbon committee to study due process, for some of the other things they have started to do.

The place for it to occur is here. If the NCAA isn't going to do it internally, and they have sworn a disdain to do so over 14 or 15 years, then for goodness sakes, let's not have 50 different States with 50 different due process laws. Let's have one national movement that makes and mandates what has to be treated as fairness.

Mrs. COLLINS. Nobody answered the question about whether or not there are any jurisdictional problems with the State laws.

Mr. YAEGER. All I can tell you, and I am certainly not a legislator, but there were a number of different States that gave the bills that they eventually passed or considered over to their attorney general to answer that constitutional question. Each and every one of them came back that this was certainly within the realm of the possible.

Mrs. COLLINS. Representative King?

Mr. KING. We did the same thing. Here is the issue.

What will have to happen is millions, perhaps, dollars will have to be spent in moving constitutionality. How much easier that would—and perhaps State-by-State because each State law is going to be different.

Perhaps what we could do congressionally would be to say we are going to save everyone that money and that implications. We are going to do it nationally, so there isn't any question.

But in our State the only way they could prove that we didn't have the right to do it is to come, first of all, investigate one of our institutions. Then not follow the due process of the law that we have in place. Then there would have to be a suit.

You could make it, if you and Congress so chose, so much easier for everybody.

Mrs. COLLINS. Mr. McMillen?

Mr. MCMILLEN. Thank you, Madam Chair.

One of the concerns that I heard President Roselle and others mentioned is somehow there is an axe to grind here. The motivation for these hearings is that somehow we are trying to stick up for schools that have been aggrieved.

It seems to me, those who have seen the enforcement process first hand are best able to comment on it. To argue the other point is the equivalent of a gag rule, which concerns me a great deal about the NCAA, that they put a gag rule on anybody that dares to criticize the process.

It impugns my integrity, it impugns a lot of your integrity as well. I have a lot of problems with anybody making that declaration.

Clearly there is a reluctance to reform. Thank God for publications like "USA Today," and others who have made a point of putting pressure on the system. That wouldn't have happened if it were not for legislation we passed in this body. It generally raises the issue of whether the NCAA can internally reform itself.

Mr. Brody, I have looked at that for many years; given its current structure, can they reform?

Mr. BRODY. I don't think so. First, because of the very practical reason, they are in control of the situation at this time.

Why would anybody seek to vote to diminish their control? At a political level the internal politics of the association are such that people do not advance within the association without first demonstrating their, I guess I would describe it as association trustworthiness at low level kinds of committee jobs, and so on.

It would be a marvelous study for a political scientist to observe how people track up through the NCAA to get to positions of authority and get to positions on the council and other legislative bodies.

This morning the witnesses talked about the association being a voluntary association, and all 800 members vote. But if you go through the manual and you look at this Byzantine structure, they have something called the executive committee that consists of 14 members and two ex-officio members. That committee, that executive committee has the authority under the Constitution to adopt executive regulations not inconsistent with the provisions of the Constitution or other bylaws. That is how many of these minutia rules get into the books, because the executive council adopts them and then eventually they are approved by the full convention who has not looked at them.

Mr. MCMILLEN. One of the things Congress can't do very well is look back at its recommendations. In 1978, they made a lot of them.

The NCAA said they adhered through a lot of them. When I looked through the investigation it says joint parallel investigation of the universities, speeding the process, including the likelihood that the guilty parties are punished. That has been done somewhat. Complete transcripts of all infraction hearings to be provided to all parties and interest, just recently tape recordings, but that is it.

The NCAA revised and completely recodifies its substantial rules with an eye to simplistic and clarity. They say they comply with them, but the fact they established a blue chip commission, 13 years later they are finally doing it.

What is your comments in the aftermath of that 1978 hearing?

Mr. **Winter**. It is incredible to me that they would suggest that they have complied with those or other reasonable requests. They simply haven't.

The record we have before us, Madam Chair and Congressman, that is not the case. One of the rules they adopted in their book is universities cannot have stationery as letterhead which is anything but black and white.

You can't put your little Jay Hawk on there. But the truth is that the proof to me is in the fact that they came to Kansas and they went to Florida, they come here and they fight so vigorously against a very simple concept, due process in the U.S. Constitution.

To me, they have a public relations hanging curve to hit out of the ball park, to walk in and say that is great, we like it, too, we will comply with due process, we will change our rules.

Mr. **McMillen**. Any other comments on the aftermath of the 1978 hearings?

Mr. **Yaeger**. I think what you found, you are precisely right, Congressman, they did not conform to the numbers that they like to claim, although they have in part done some of those things.

What I think we found in the 1978 hearings is nobody, Congress, no one else came back to hold their feet to the fire. That is the problem. That is why we are here 13 years later. That is why if nothing is done today, we will be here 13 years from now.

Mr. **McMillen**. Can you comment on this new commission being formed, Chief Justice Burger heading it up. Is this an effort in the right direction?

Mr. **Yaeger**. One of the issues that most needs to be discussed about that new commission is its chairperson, Chief Justice Burger didn't show up for the meeting.

He is a co-chair. The other co-chair, Rex Lee, was paid a pretty handsome sum by the NCAA to represent the NCAA in the Jerry Tarkanian case against Tarkanian.

He represented the NCAA and defended its due process. He defended the fact they didn't need due process before the U.S. Supreme Court.

Now he chairs a committee appointed by the NCAA to look into the question of should due process be necessary.

Mr. **McMillen**. I sounds like a gold chip.

Mr. **Brody**. I am skeptical about the process of the blue chip commission. It seems to me to be in the transition of NCAA reform and in that they appoint a lot of people with stature to look at a problem.

The people have stature, but they don't have much first-hand information. All the information they will get will be filtered through the staff and the existing ongoing bodies. They just meet periodically.

So I think that, frankly, I think they will be used.

Mr. **McMillen**. What about the arguments that this language will encumber the process? We won't be able to get after the bad actors?

Mr. **Brody**. Justice is always difficult. It is not something that just happens. That is one.

I don't think it will be anymore cumbersome than what goes on now. Now for the institutions, the institutions basically operate in the dark.

I think there may have been some slight improvements in that area since 1978. They certainly operate in the shade. They really don't know exactly what they are being charged with.

They don't have a grasp and the ability to get to the individuals and evidence against them. This would just make it more difficult for the process in that now things could be challenged.

If they have to inform them, if they give the ability to confront witnesses, it will make the process more difficult.

Mr. McMillen. One last question. Do you think if the presidents were in direct control of the NCAA, we would have fewer rules, more due process and the system would operate better?

Mr. Yaeger. I am not necessarily sure actually. One of the things that struck me when I was interviewing people for the book were the number of coaches who told me stories that directly showed that their president was as desirous of winning and it was as important to him to be in that national championship game as it was to the coach.

To believe that presidents, because they are not coaches, care any less about that might be a little naive.

Mr. McMillen. Except for the fact that they have to be held accountable for the higher education values on their institutions. The coach doesn't. That is generally not universally the case. But the CEO of a university does.

Mr. King. In response to the question just before it, would it be more cumbersome, that was one of the allegations the NCAA made when they came to Florida.

Let's think about that. If it is more cumbersome, and perhaps let's even go one step beyond and say that maybe if someone who was guilty, really guilty wouldn't have been found guilty, but in the process many who were innocent would be given the protection of at least knowing that their adjudication of guilt was going to be predicated upon court testimony about historical data and not just innuendo, I am not at all sure that I wouldn't be as an elected member willing to make that trade.

I don't think that is going to encumber anybody who is guilty, but I do think that it is worth protecting those people who are innocent.

As a parent it would absolutely destroy me if my child, an athlete, was found guilty and I couldn't go in and see who alleged what or see who actually said what. Not what the investigator thought they heard, but what actually was said.

Too often times I think we lose sight of the fact that many of the people being adversely affected are, in fact, kids, kids with their whole lives in front of them. I think they deserve the protection that this Nation gives to virtually everybody else who has ever been accused of anything.

Mr. McMillen. Let me say thank you, Madam Chair for your indulgence and again for your leadership on this issue.

Mrs. Collins. I certainly thank the gentleman for his foresight. It was at the request of you and Mr. Towns that we began to look into this matter. You have certainly been a leader in this field.

I want to thank all of the witnesses who have been here today for the testimony that they have given this subcommittee.

We know it has been a long, hot tedious hearing. We certainly thank you for your candor and for your cooperation.

With that this hearing is adjourned.

[Whereupon, at 2:30 p.m., the hearing was adjourned, to reconvene at the call of the Chair.]

[The following statement was received for the record:]

STATEMENT OF KENNETH R. BOYLE, TRUSTEE, UNIVERSITY OF ILLINOIS

Madam Chairwoman, members of the committee, my name is Kenneth R. Boyle and I reside at 144 Leisure Lane, Chatham, Il. I offer this written testimony as a duly elected public official and as a member of the Board of Trustees of the University of Illinois, and in support of the efforts by Congress to bring about positive, constructive change in the investigative, enforcement, and compliance procedures used by the NCAA towards its' member institutions and student athletes.

I apologize for being unable to personally appear before this subcommittee, but my duties as State Appellate Prosecutor require me to remain in Illinois. However, I appreciate the opportunity to present my views to this body.

I want to preface this written testimony by advising the members of the subcommittee that this testimony in no way purports to represent the position of any other members of the Board of Trustees, or in any way represents any official position of the University of Illinois. It is my opinion and belief based on my experience with the NCAA.

I offer this testimony on my own behalf, as an individual concerned with fairness and equity to member institutions of the NCAA, and concern for the rights of all student athletes who attend public supported institutions in this great Nation and in the State of Illinois. I am also duly concerned about the severe financial impact that the NCAA's rules, regulations, and enforcement procedures have on tax supported institutions.

My interest in issues involving student athletes is not new. Since my election to the Board of Trustee's of the University of Illinois, and my appointment as chairman of the Athletic Activities of the Board of Trustees, I have directed my attention to the many multi-faceted problems facing participants in intercollegiate athletics. I have observed first hand the hours of hard work and sacrifice required to balance the relationship between being an athlete and being a student, and obtaining an education at the University of Illinois. I have also observed the devastating effect on the personal lives of student athletes and coaches, who without due process and equal protection, were subjected to the enforcement staff of the NCAA over a several month period in an effort to find wrongdoing by these individuals.

While many members of Boards of Trustees of colleges and universities have not undergone an NCAA investigation and the stigma therewith, I have not been so lucky. I am unable to count the innumerable hours I have spent with my colleagues on the Board, or the amount of taxpayers dollars spent, in our efforts to insure the integrity of our University, its' coaches, and student athletes. We became frustrated, angered, and yes, even sometimes amused at the NCAA's one-sided, adversarial process which covered several months. In my 15 years of law enforcement experience as a prosecutor, presently serving as Director, Office of the State's Attorneys Appellate Prosecutor for the State of Illinois, I found defendants in criminal cases afforded more rights than the University of Illinois, its' coaches and student athletes. It is morally and ethically wrong for basically good people to be treated in this manner. I can only hope for the passage of legislation to insure fair and equitable treatment for the Universities and the student athletes.

The allegations made by the NCAA were made with a lack of any evidentiary standard, a one-sided discovery process, and without transcribing testimony of witnesses. In fact, when the NCAA Enforcement Staff was finally confronted during 2 days of meetings, their allegations were found to be unprovable before the NCAA Infractions Committee.

During the course of this long, drawn out NCAA process, the University of Illinois conducted its own internal investigation, and when the University uncovered minor violations, in good faith it reported these minor violations to the NCAA.

The NCAA Enforcement Staff could not prove its very serious charges, but the Infractions Committee still saw fit to level severe sanctions against the University for these self reported minor violations.

Furthermore, since the time of the Investigation, the University and student athletes have been subjected to repeated comments in the media by present and former members of the NCAA staff.

I don't wish to burden this subcommittee with a longer dissertation on the perceived abuses of power and process by the NCAA. Nor do I want to leave this subcommittee with the impression that those who violate recruiting rules should go unpunished. On the contrary, if Universities, through their coaches, boosters, or whomever, violate the rules, they should be punished. However, no institution or student athlete should be subjected to a quasi-judicial system without due process and equal protection of the law.

Far too long now, America has waited for the NCAA to adopt fair, written procedures governing their investigation, prosecutions, and adjudications. For one reason or another, the NCAA does not wish to act in these areas, despite the fact that many of their own disciples must realize that the current process is flawed.

Normally, I would be opposed to government interjecting itself into intercollegiate athletes, but the lack of due process and equal protection by the NCAA is hurting colleges and universities, and affecting too many kids. I would point out to the subcommittee that the States of Nebraska and Nevada have recognized the importance of State intervention and have already taken steps to protect their institutions and student athletes by enacting due process legislation. Furthermore, in my home State of Illinois, and in the States of Kansas, Florida, and California, at this time the respective legislatures are debating this important issue. The bill has passed the Illinois House by a vote of 101-5, passed a Senate Committee by a vote of 15-1, and awaits floor action in the Illinois Senate.

However, this matter transcends State lines and is truly a Federal issue, as it is impractical to think of the 50 States each enacting some form of due process and equal protection legislation when Congress, with one bill, could address the needed reform.

I urge this subcommittee to consider the merits of due process and equal protection legislation.

Again, thank you Madam Chairwoman and members of the subcommittee for this opportunity to express my concerns.

INTERCOLLEGIATE SPORTS
Academics and Athletics

THURSDAY, JULY 25, 1991

House of Representatives, Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness,

Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m. in room 2322, Rayburn House Office Building, Hon. Cardiss Collins (chairwoman) presiding.

Mrs. Collins. Good morning. This hearing of the Energy and Commerce Subcommittee on Commerce, Consumer Protection, and Competitiveness will come to order.

Today's hearing on college sports will examine how well our colleges and universities are educating our student athletes. At our last hearing on college sports, I raised my fundamental concern that colleges not exploit our youngsters for profits, while providing no real opportunity for a real education.

In recent years, increasing attention to graduation rates has begun. Thanks to efforts by many in Congress, including Ed Towns and Tom McMillen, schools are now required to report graduation rates of their athletes as well as the student body in general.

At first blush, one might look at the statistics and assume no problems. Graduation rates for athletes are slightly higher than for the student body generally. However, when we take a closer look at the numbers we see that averages hide some very serious problems.

First, we see that graduation rates are much lower for athletes involved in football and basketball, the two profit-making sports. They are particularly lower in the large, most competitive conferences and among schools appearing in the NCAA basketball tournament.

Second, these two sports also have large numbers of minority students, and their graduation rates are particularly low. Black student athletes are graduating at just 26.6 percent, according to the NCAA, about half the graduation rate for white student athletes.

Third, averages hide the variations among colleges. Some university programs are graduating virtually none of their athletes.

Today, we will hear a good deal of testimony about proposals to raise initial eligibility standards for athletes. I have no problem with setting realistic minimum standards so that schools do not admit students who have virtually no chance of successfully completing their courses.

However, my main concern is that whenever the subject of graduation rates take place, the first and foremost recommendations always deal with admission standards. In my view, they should be the last. I am particularly wary of so-called solutions relying on standardized tests and statistical predictions, when real education problems should be addressed. Indeed, recent evidence suggests that despite lower overall graduation rates, African American athletes with low SAT scores graduate at much higher rates than white athletes.

With more and more money riding on television contracts, basketball and football seasons seem to get longer and longer each year. Yet where are the recommendations to reduce the seasons and let the students have more time to attend their classes and do their homework?

The service academies have 1 year pre-college programs for appointees who need remedial help in order to take on the academics. Yet how much of the millions of dollars in revenues for the NCAA basketball tournament is used for this purpose? And what about the tutoring budgets? What is the commitment of schools to aiding the student athlete after his eligibility has come to an end? How are schools dealing with the cultural problems of minority students described so well by Mr. Lapchick in his testimony?

We will be hearing from the NCAA Presidents Commission today. I am glad to hear that they, too, are not satisfied with the graduation rates among football and basketball players, and are confronting the issue. I am in particular agreement with their proposals to ensure that progress is being made toward a degree once a student is admitted.

I am also interested in what the coaches and administrators have to say. As those who see the athletic schedule first-hand, they have some interesting perspectives, as well.

Let me take this opportunity to welcome to our hearing today a number of people.

First, on the first panel will be Dr. William G. Friday, President Emeritus of the University of North Carolina and the Co-Chairman of the Knight Commission, and Chancellor R. Gerald Turner of the University of Mississippi. We are also going to have Dr. Leroy T. Walker who is the Chancellor-Emeritus of North Carolina Central University.

On the second panel we will have Dr. Richard E. Lapchick, who is the Director of the Center for the Study of Sport in Society, Northeastern University, Mr. Richard "Digger" Phelps of South Bend, IN., and Mr. George Raveling, Head Basketball Coach for the University of Southern California.

Now we will have an opening statement from Mr. McMillan.

Mr. McMillan. Thank you, Madam Chairwoman.

Today we address the issue of whether many young men and women competing in intercollegiate athletics are also preparing themselves to compete in the open marketplace in their post-college years. We have expert witnesses here today to discuss graduation rates of student athletes.

I would personally like to welcome a couple of members of the panel—my fellow Carolinian Bill Friday, whom I first knew—he may not recall this—as a student at the University of North Carolina in the early 1950's when Mr. Friday was assistant to then President Gordon Gray of the consolidated university. And, as many of you know, Bill Friday went on to become President of the consolidated University of North Carolina, and most recently has served as Co-Chairman of the Knight Commission.

The greater university on balance has done an effective job and has sought to strengthen the capacity of the NCAA to set rules and regulations and to govern the member institutions. I am certain Bill Friday can attest to the many pressures facing a university president trying to assure both academic as well as athletic success in the university environment.

The Knight Commission on Intercollegiate Athletics is to be commended for making academic integrity a central part of their thoughtful and extensive report addressing the problems facing intercollegiate athletics.

The Presidents' Commission has recently come out with their recommendations for strengthened academic standards, and I look forward to learning more about the rationale behind these proposals and possible solutions which will serve to increase our student athletes' graduation rates.

I would also like to take this opportunity to welcome another fellow North Carolinian, Dr. Leroy Walker of North Carolina Central University, which is also a part of the greater University of North Carolina. For many years he has been actively involved with the U.S. Olympic teams and has been instrumental in helping bring the Olympics to Atlanta in 1996.

In comparing the graduation rates of college athletes to those of the general school population, one would initially conclude that student athletes are just as likely to graduate as the overall student body. However, it is discomforting to learn that barely half of both athletes and students are graduating in the course of a 5-year period.

Looking closer at the graduation rates of the various sports, wide disparities begin to emerge, particularly in basketball and football. For example, athletes of revenue generating sports will have lower graduation rates than participants in other sports. Legitimate concerns have arisen as to whether many schools are just using these athletes rather than educating them.

Fortunately, we can point to examples of schools who compete successfully on the athletic field and graduate a high percentage of their student athletes. They help prove that athletics and academics are not incompatible. From the list of witnesses, I see we will have the opportunity to learn more about the problems facing our student athletes and, hopefully, explore possible solutions.

I hope that we will learn more about the pressures and demands placed on students both in and out of the classroom and how universities and the NCAA might work with them to match athletic success with academic success.

I thank you very much and look forward to your testimony.

Mrs. Collins. Mr. Tom McMillen.

Mr. McMillen. Thank you, Madam Chairwoman.

I have a longer statement I would like to have inserted in the record.

Mrs. Collins. Without objection, so ordered.

Mr. McMillen. I want to thank you for having these hearings once again. I have long been interested in the topic of graduation rates of student athletes. As you know, in 1987 I cosponsored legislation with Congressman Towns of New York and Senator Bradley of New Jersey which would require colleges and universities to disclose the graduation rates of student athletes as compared to the general student body.

Frankly, we were all surprised by the NCAA's initial opposition to this innocuous proposal. Our goal was to make the disclosure of these rates be the great disinfectant. Students and their parents would have a firm understanding of their son's or daughter's chances of graduating from a given university based on this information.

The bill was enacted by the Congress in 1990 and signed into law. The initial results are not promising. More than a third of colleges and universities that responded to a recent survey say fewer than 25 percent of their minority athletes graduate.

Madam Chairwoman, I believe we have come to a time where college athletics needs congressional intervention to achieve reform. Those who argue against that, I remind them, as I did in a press conference prior to this, that Title 9, Student Right to Know are all examples of congressional interventions.

In fact, I said in the press conference that the NCAA owes its own creation to Federal involvement. President Teddy Roosevelt said abolish football in 1904 because of violence or clean up your act. The NCAA was formed to clean up their act, and as I said, their creation, in fact, was due to Federal involvement.

I might also add that the NCAA oftentimes comes to Congress for help. In the 1986 Tax Bill they asked for tax advantages with regards to priority seating which they received.

I might also add that the late Silvio Conte was a great advocate of Federal involvement. He introduced a bill that would protect the NCAA from the IRS and some of their encroachments upon their income.

Madam Chairwoman, I have introduced legislation today which I won't go into in detail, but I think gets to the real heart of this problem, which has to do with money and the fact that we have got to get a handle on the massive amounts of money going into the system. Our legislation restores an antitrust exemption, stops the fragmentation of TV money. I put a conditionality onto that. The conditionality put onto it is that there should be stricter presidential control to move the bureaucracy which heretofore has been very, very difficult to move.

And, last, I put educational values back into this model which I think is so sorely needed to stand up for the student athletes in this country who are oftentimes not represented in this process.

I think that this legislation, obviously, will be the kind of vehicle that will stimulate this debate, hopefully as we continue in these hearings.

I just want to say, again, I thank you for having these hearings. There is really two operative questions, Madam Chair. One is, are college sports out of balance in this country? Clearly, the American people feel they are. The Harris Poll indicated that.

The second operative question, I believe, is, can the NCAA reform itself? Can it reform itself sufficiently to get the model back into balance? And I believe the answer to that is no. I think that is why these hearings are so critical and your leadership so important as well.

Let me close by again welcoming Bill Friday and Leroy Walker here. I enjoyed serving with you on the Knight Commission. Both of you did yeoman's work in that great commission. I think it also contributed greatly to this important issue of reforming college sports, restoring higher education values in this country. Thank you very much.

[The prepared statement of Mr. McMillen follows:]

STATEMENT OF HON. C. THOMAS MCMILLEN

Madam Chairwoman, during the last 100 years, the U.S. Government has intervened in intercollegiate sports at those times when the athletic leaders either cannot, or will not, reform the system. In 1905, the use of the "flying wedge" in college football caused 18 deaths, prompting President Theodore Roosevelt rule changes that reshaped college athletics. In 1972, Congress passed Title IX, which required colleges to spend an equal amount of money on women's athletics as they spend on men's athletics. In 1978, a House subcommittee spent 9 months investigating the NCAA's enforcement division after stories of abuses arose. And in 1990, the Congress passed the Student Right to Know and Campus Crime Act, which required the reporting of graduation rates.

The main thrust of reform to college athletics has often come from outside the traditional athletic system. Today's numerous scandals, arbitrary penalties, and the NCAA's hodge-podge rules raise the question of whether college athletics can heal itself or whether it needs outside surgery.

Intercollegiate athletics is facing a myriad of problems. The American public has lost confidence in its fairness; student athletes in big-money sports spend more time with playbooks than with text books; and the money flooding the system is perverting the delicate balance between academics and athletics.

The NCAA's response to the crisis has been inadequate: its members have promulgated an ironic system of rules that severely penalize the most minor infraction while ignoring the larger, corrupt practices which are evident in the system. While students are prohibited from receiving a small stipend to cover normal living expenses, NCAA staff fly in a private jet around the Nation setting up billion-dollar television contracts.

I am a product of the intercollegiate athletic system and I genuinely believe it still offers a host of benefits for those student athletes who participate. Yet, the problem, as I see it, is that the NCAA has been tinkering around the edges with small rule changes instead of leading the call for reform. In 1987, when Congressman Ed Towns, Senator Bill Bradley and myself introduced the "Student Athlete Right to Know Act," which became law in November, NCAA representatives objected to the simple graduation rate reporting requirements as intrusive and cumbersome.

To be fair, NCAA Executive Director Dick Schultz should be commended for developing an initial agenda for addressing the matter. There is no question that he has a difficult task ahead of him and that he is working very hard to achieve reform. However, the NCAA, in general, has been too resistant in adopting a new model for college sports.

That is why, today, I am introducing legislation which would impose comprehensive reform on intercollegiate athletics. It gives more power to college presidents and provides them with the mandate necessary to reform the system. In addition, it requires a system of revenue distribution that does not reward those schools who happen to win basketball and football games, but rather, rewards those schools who concentrate on the academic performance of their student athletes, and who develop balanced athletic programs for their men and women students. The key to reforming intercollegiate athletics, I believe, is getting a handle on the money. Unless we control this pervasive influence in college athletics, the incentive to cheat will always be present.

I won't go into every detail of the bill at this time, however, I will state my overall goal. The legislation seeks to restore education as the primary goal of our institutions of high learning. If these institutions continue to act as businesses, only concerned with increasing ticket sales and maximizing profits, then I believe they should be taxed as such. The bill establishes general guidelines for a new revenue distribution formula, but gives the college and university presidents the power to establish the formula in a way that takes into consideration the diverse nature of athletic programs.

Most of the proposals in this bill are not new. They have been part of the reform debate for more than most of this century. Some were proposed by Knight Commission in 1990, only to be criticized by NCAA officials. Some were proposed by college presidents in 1983, only to be defeated by the NCAA convention. And, the general incentive for the bill can even be found in the 1929 report from the Carnegie Fund for the Advancement of Teaching when it said that recruiting had become corrupt, education was being neglected, and commercialism reigned king. Sixty two years later, these problems are still with us.

There are those who believe that Congress has no place for tinkering with the system of intercollegiate athletics. Yet, let's not forget that the NCAA is often in the halls on Capitol Hill, seeking legislative help on a variety of issues. For example, legislation was introduced earlier this year which would clarify colleges' status with regard to bowl games. One doesn't hear the NCAA complaining about this beneficial "Federal intervention."

I would argue that stakes are too high to sit by while the system continues to erode. The taxpayers have invested too much in higher education to see their investment diminished by scandal after scandal in intercollegiate athletics. The time to act is now.

Madam Chairwoman, I commend you for holding these hearings and for investigating graduation rates among student athletes. This issue has been important to me for years, and this committee should be commended for bringing it to the forefront of this debate.

Mrs. COLLINS. You know, I take real pleasure in introducing the next person because he was my neighbor many years ago, 10 years ago, as a matter of fact, when I first came to Congress. And we had some very interesting times in our little next-door neighborly type of things with getting our work done. And I was over there as a brand new Member of Congress borrowing paper from his staff. He probably didn't know about that, but I certainly did.

On occasion, our staffs would have lunch together, so it is really good to see him and have an opportunity to hear from Senator Thad Cochran of Mississippi.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Mr. COCHRAN. Thank you very much, Madam Chairwoman. It is a real pleasure to be here before your committee and to congratulate you on the leadership you are providing in this subject matter and generally as a Member of Congress from Illinois. It has been a pleasure being your friend for the last 18 years.

I am here today to introduce and to present to the subcommittee my good friend who is Chancellor of the University of Mississippi, Gerald Turner. Dr. Turner is Chairman of the Presidents' Commission of the National Collegiate Athletic Association. It is this commission that has led the reform effort within the NCAA and has been so successful in getting approval from member colleges and universities of many changes and regulations that are now in place to help deal with the problem that is before the committee this morning and that is, simply speaking, helping to ensure that athletes on our campuses in the United States are fully included in the academic mainstream in their colleges and universities.

Dr. Turner had teaching and administrative positions before he came to the University of Mississippi at the University of Oklahoma and Pepperdine University in California. He is very well respected throughout the United States for his leadership in this area.

With the Southeastern Conference, he has been at the forefront of administrators and chief executive officers of member universities to improve the performance of the colleges and universities in that area of the country. So I would hope Madam Chairwoman, that you and the members of the committee would look very closely at the successes that have been achieved under the leadership of Chancellor Turner and others who have been working very hard in this effort. I appreciate your giving me a chance to be before the committee this morning for the purpose of presenting Chancellor Turner.

Thank you very much.

Mrs. COLLINS. Thank you. We will next hear from Mr. Sam Poole, who is the Administrative Assistant for Senator Terry Sanford of North Carolina. Won't you begin now, please?

STATEMENT OF SAM POOLE, ADMINISTRATIVE ASSISTANT, ON BEHALF OF HON. TERRY SANFORD, A U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Mr. POOLE. Thank you, Madam Chairwoman.

I am certainly pleased to be here on behalf of Senator Sanford not only because he wanted to be here to present two distinguished North Carolinians but because I personally chair the Board of Governors that governs the two schools which these two individuals represent. I am sure that we can expect to hear a very interesting and productive discussion of the issue of college athletics, and I will present Senator Sanford's statement in the first person as he really wanted to be here himself.

If I may, I would like to take a moment to introduce my good friends, Mr. William Friday and Mr. Leroy Walker, who will both be having the opportunity to testify this morning.

As early as high school, Bill Friday knew how to combine education with athletics, as he played an active role in many school activities, achieving on the debate team as well as on the baseball field, not to mention being the school sports writer. He graduated from North Carolina State University in 1941 and went into the Navy, where he was a Naval Officer in World War II.

After the war Mr. Friday dedicated himself to the field of education. He graduated from the law school at the University of North Carolina in Chapel Hill in 1948 and was appointed Administrative Assistant to the President of Chapel Hill in 1951.

Mr. Friday went on to become President of the University of Chapel Hill in 1956. In 1986 Mr. Friday received the distinguished award as the most effective public university president in the Nation. In 1987 he was named Executive Director of the William R. Kenan, Jr., Charitable Trust Fund.

Bill is a member of many boards and committees which are pertinent to our subject today, including his position as Co-Chairman of the Knight Foundation National Commission on Intercollegiate Athletics and the North Carolina Public Schools Forum. I am certain that he will be well suited to serve our purposes here today.

Mr. Leroy Walker also has had a profound effect in the fields of education and athletics. In his long career he has served as a university chancellor and a coach. He was Chairman of the Department of Physical Education and Recreation and track coach for North Carolina Central University from 1974 to 1983.

In 1983 he became Chancellor of the North Carolina Central University and stayed in this position until 1986, when he became Chancellor-Emeritus, a position he still holds today.

He has been an advisor to track and field teams throughout the world, coaching the Ethiopian and the Israeli Olympic track teams in 1960 and the U.S. track and field team in the Montreal Olympic Games in 1976.

Mr. Walker was inducted into the Olympic Hall of Fame in 1987. Although Leroy has been involved in athletics all of his life, he has never lost sight of the importance of getting a good education, and he has passed this on through his work. I am sure he will add much to this hearing. He has been on both sides of the playing field.

I would like to thank Representative Collins for her leadership in conducting this hearing.

Mrs. Collins. Thank you very much.

Mrs. Collins. Why don't we begin with you, Mr. Friday.

STATEMENTS OF WILLIAM G. FRIDAY, PRESIDENT EMERITUS, UNIVERSITY OF NORTH CAROLINA, AND CO-CHAIRMAN, KNIGHT COMMISSION; R. GERALD TURNER, CHANCELLOR, UNIVERSITY OF MISSISSIPPI, AND CHAIRMAN, NCAA PRESIDENTS COMMISSION; AND LeROY T. WALKER, CHANCELLOR EMERITUS, NORTH CAROLINA CENTRAL UNIVERSITY

Mr. Friday. Thank you, Madam Chairwoman. Good morning, members of the committee.

My serious involvement in college sports came in 1961 when, as a university president and after witnessing repeated recruiting violations and a point-shaving scandal, we imposed restrictions on the recruitment and admission of athletes in our institutions. We eliminated organized summer competition, and we terminated the Dixie Classic, at that time one of the premiere holiday basketball tournaments of its day. These actions were taken unilaterally because it was necessary then, as we think it is now, that clear, decisive authority be exercised and control retained in the president's office.

In 1979 I was a member of the group of the American Council on Education, looking at critical issues surrounding college sports at that time. It was among this group that two key ideas were first advanced and nurtured. The first one was the need for a national academic standard for prospective student athletes and, second, the principle of greater presidential involvement and leadership in intercollegiate sports.

The academic standard that would eventually evolve here became Proposition 48, while the call for presidential leadership would evolve into the NCAA Presidents' Commission which Dr. Turner now heads.

Since leaving the University in 1986, I have kept a great interest in this subject, and when our fellow alumnus and long-time friend Louis Harris reported as he did, as Representative McMillen has mentioned, that four out of five of our citizens think intercollegiate sports are out of control, then university leaders began to feel the full magnitude of this problem.

They understood then that at issue is not simply the reputation of our athletic programs. Instead, it was the reputation and the integrity of American colleges and universities, their governing boards, their administration, faculty and staff that we are being severely eroded.

In 1989, Mr. Creed Black, who was President of the Knight Foundation, created the independent commission about which you know. He has appeared before you, and he asked Father Hesburgh and myself to co-chair this commission, which we have done. In March of this year we released that report outlining a new model for intercollegiate sports, and we were delighted that the Honorable Tom McMillen could join us in all of this work.

The model which the Knight Commission proposed is by design straightforward and very simple. Rather than attempting to solve at one fell swoop every single subsidiary issue that exists today in college sports, we based our reforms on what we feel are fundamental and abiding principles. We call for presidential control of intercollegiate athletics, with this control directed toward academic integrity, financial integrity, and a system of independent public certification.

In the report entitled Keeping Faith with the Student Athlete, we have recommended this "One-plus-Three" model to all NCAA member colleges and universities, convinced that the application of these principles can and will make a significant, positive difference in the conduct of sports programs throughout higher education.

Let me illustrate these solutions for you as put forth in the commission. As my colleague, Mr. Turner, will tell you, the primary thrust of the upcoming NCAA convention in January will be in the area of academic reform.

As Father Hesburgh and I were saying to each other recently, the achievement of these reforms is going to be very critical, and it will be on these academic matters that the presidents and the chancellors will be judged either favorably or most harshly, both within the academic community and by the American public. It is only when we enact these academic proposals that we will keep faith with the student athlete.

On admissions, it is our recommendation that initial eligibility requirements for receiving athletically-related financial aid and participating in college sports must be strengthened, including an increase in the number of core courses in a rigorous high school curriculum.

Also, the commission has recommended that the high school student athlete be ineligible to be reimbursed for campus visits or signing letters of intent until the university admissions office indicates that he or she shows reasonable promise of earning a college degree.

At the request of coaches who appeared before us, we have stated that the junior college transfers who did not meet Proposition 48 upon graduation from high school should be required to sit out a year of competition after transfer.

Finally, we call upon colleges and universities to put in place academic requirements that will insure the range of academic ability for incoming students that would approximate the range of abilities for incoming institutional freshman classes.

With reference to satisfactory progress, the Knight Commission has recommended that the scholarship assistance should routinely cover the time required to complete a degree up to the maximum of 5 years, not the year-by-year program currently mandated by the NCAA.

At the same time, student athletes would be required to demonstrate semester by semester that they are meeting the institution's published graduation requirements and are on track to graduate within 5 years. In short, no pass, no play.

Finally, the Knight Commission believes that no university should countenance lower graduation rates for its student athletes in any sport than it is willing to accept from the full-time student body at large. Ultimately, this must be a major requirement upon which NCAA certification depends.

Two other points—does that mean my time is up?

Mrs. COLLINS. If you have just a little bit more to go, go ahead.

Mr. Friday. The first point is that the Knight Commission Report includes a statement of principles which is supported and enacted by colleges, universities and the conferences and professional education organizations, and the NCAA would set a new and constructive course for the conduct of intercollegiate sports.

The second point is that the Knight Commission is not going to cease and desist. It is very important to keep in mind in all that we say here today that there are hundreds of institutions that engage in intercollegiate competition who are not under sanction and who have realized every gain such competition has to offer. We salute them.

Thank you.

Mrs. COLLINS. Thank you very much.

[The prepared statement of Mr. Friday follows:]

STATEMENT OF WILLIAM FRIDAY, PRESIDENT EMERITUS, THE UNIVERSITY OF NORTH CAROLINA

Thank you, Madam Chairwoman, for the invitation to participate in this series of hearings concerning the present day public perception of the state of intercollegiate sports in America.

My serious involvement in college sports came in 1961, while serving as President of the University of North Carolina, a position I held for 30 years. After witnessing repeated recruiting violations and a point-shaving scandal, we imposed restrictions on the recruitment and admission of athletes, eliminated organized summer competition, and terminated the Dixie Classic, one of the premier holiday basketball tournaments of its day. These actions were taken unilaterally because it was necessary that clear decisive authority be exercised to retain control in the president's office. I was gratified when later in the same month, the governing board of the University endorsed both my actions and this statement:

Our aim is to save athletics by deemphasizing certain practices and removing certain influences which have been detrimental to college sports and taken away from them the very qualities which make them valuable as a part of education.

Our position is a positive one. We aim to restore sports to sportsmanship. We aim to conserve to our students their rightful privilege of taking part in wholesome athletic competition, and protect them, as the university must from exploitation.

In the ensuing years, my interest and involvement with college sports has remained. Intercollegiate sports has an appropriate and important role to play in the life of the university. At the same time, vigilance must be exercised to curb the excesses that have too often characterized this most public aspect of university life.

In 1979, as a member of the American Council on Education, I joined other presidents to involve that organization in the critical issues surrounding college sports. It was among this group that two key ideas were first advanced and nurtured: One was the need for a national academic standard for prospective student athletes, and the second was the principle of greater presidential involvement and leadership in intercollegiate athletics. This academic standard would eventually become Proposition 48, while the call for presidential leadership would evolve into the NCAA Presidents Commission.

Since leaving university administration in 1986, I have continued to watch with considerable concern, I might add, the ever-growing list of colleges and universities placed under NCAA sanction for rules violations. As reported by The Chronicle of Higher Education, this includes during the past decade more than half of the institutions—57 out of 106—which compete at the highest level, NCAA Division I-A.

When my longtime friend, pollster Louis Harris, reported in June of 1989 that four out of five people surveyed felt that big-time college sports were 'out of control,' university leaders felt the full magnitude of this problem. They understood that at issue was not simply the reputation of our athletics programs. Instead, it was the reputation and integrity of America's colleges and universities, their governing boards, administration, faculties and alumni that were being severely eroded.

In 1989, Mr. Creed Black, who appeared before you recently, led the Knight Foundation in its creation of an independent, experienced panel to take a hard look at intercollegiate athletics. It was my privilege to serve as one of the Co-Chairs of the Knight Commission on Intercollegiate Athletics, sharing this responsibility with Father Theodore Hesburgh, President Emeritus of Notre Dame.

The Knight Commission has spent nearly 2 years, first developing and now actively advancing our reforms. In March of this year we released our report outlining a new model for intercollegiate athletics. In the Commission's deliberations and continued reform efforts, we are grateful for the participation of one of your colleagues, Honorable Tom McMillen.

The model which the Knight Commission proposed is, by design straightforward and relatively simple. Rather than attempting to solve at one fell swoop every single subsidiary issue that exists in college sports, we have based our reforms on what we feel are fundamental and abiding principles. The Commission has called for presidential control of intercollegiate athletics, with this control directed towards academic integrity, financial integrity, and a system of independent, public certification.

In the Knight Commission report entitled Keeping Faith with the Student Athlete, we have recommended this "One-plus-Three" model to all NCAA member colleges and universities, convinced that the application of these principles can and will make a significant positive difference in the conduct of sports programs throughout higher education.

Given the academic focus of today's hearings, I will attempt to share with you the concerns the Commission has identified in this area along with our proposed solutions. As my colleague Chancellor Turner will tell you, the primary thrust of the upcoming NCAA Convention in January will be in this area of academic reforms. Recently, I remarked to Father Hesburgh that the achievement of these reforms is absolutely critical; and, it will be on these academic matters that presidents and chancellors will be judged either favorably or most harshly, both within the academic community and by the American public.

In viewing academics, the Knight Commission looked primarily at three areas: admissions, satisfactory progress, and graduation. In brief compass, our conclusions are these:

Initial eligibility requirements for receiving athletically-related financial aid and participating in college sports must be strengthened, including an increase in the number of core courses in a rigorous high school curriculum. Also, the Commission has recommended that high school student athletes be ineligible for reimbursed campus visits or signing letters of intent until the university admissions office indicates he or she shows reasonable promise of earning a college degree. At the request of coaches who appeared before the Commission, we have stated that junior college transfers who did not meet NCAA Proposition 48 requirements upon graduation from high school should be required to sit out a year of competition after transfer. Finally we called upon colleges and universities to put in place admissions requirements that will insure that the range of academic ability for incoming athletes would approximate the range of abilities for the institution's freshman class.

With regard to this issue, the Knight Commission has recommended that scholarship assistance should routinely cover the time required to complete a degree, up to a maximum of 5 years, not the year-by-year program currently mandated by NCAA rules. At the same time, student athletes would be required to demonstrate semester-by-semester that they are meeting the institution's published graduation requirements and are on track to graduate.

Finally, the Knight Commission believes that no university should countenance lower graduation rates for its student athletes, in any sport, than it is willing to accept in the full-time student body at large. Ultimately, this must be a major requirement upon which NCAA certification depends.

In closing let me make two points. Contained within the Knight Commission Report is a Statement of Principles that, if supported and enacted by colleges and universities, athletics conferences, the professional education organizations, and the NCAA, will set a new and constructive course for the conduct of our intercollegiate athletics program. We have been encouraged by the many gaps and institutions which have endorsed these principles in the 4 months since our report was released; and, we anticipate further additions to this honor role in the future. My second point is this: The Knight Commission is not going to cease and desist. All who thought that we would simply produce a report and then disappear will be disappointed.The members of the Knight Commission have committed themselves to stay involved until our or similar reforms are accomplished. Our Commission is committed to an active role in the advancement of academic reforms in the upcoming year and to the establishment of a national program of certification. The parent Knight Foundation, which has funded and supports a variety of programs in higher education, believes in the importance of an independent well-informed and highly visible voice to keep the athletics reform efforts of our colleges and universities on course. We will be studying carefully the proposals the NCAA considers to reform itself. We will have our say about all actions taken or not taken during the coming year.

It is very important to underscore the fact that there are hundreds of institutions that engage in intercollegiate competition without sanction and with every gain such competition has to offer. We salute and congratulate such programs.

As I have said, our position is a positive one; we aim to restore sports to their rightful place in the academic community. We must not turn institutions into entertainment centers, manipulated to service scheduling requirements of commercial television to feed undisciplined public demand for more and still more games. We must prevent exploitation of students and do so now. The board of trustees of the institution, their president, and the faculties must now lead in preventing such consequences from being visited upon the academic community.

I have spoken previously of the respect I have for Richard Schultz and my belief that his stewardship of the NCAA opens the door for sports reform that was not open before. His actions and his leadership have provided clear evidence that he is sincerely interested in making college sports what they should be for the student athletes, first of all, and for our universities.

The interest of Congress as the people's representative is also vital and deeply appreciated. We thank you for this opportunity to state a point of view. At the same time, I respectfully ask the Members of Congress and this committee that they give the university community the opportunity to finish the important job which they now have underway.

Mrs. COLLINS. Chancellor Turner.

STATEMENT OF R. GERALD TURNER

Mr. TURNER. Madam Chairwoman, members of the subcommittee, I appreciate the opportunity to be with you today.

Organized in 1984, the NCAA Presidents' Commission is a 44-person body comprised of institutional chief executive officers which enjoys very substantial authority within the NCAA structure.

It is important for you to note at the outset that the commission is not a temporary phenomenon, but rather is committed to a long-term review of NCAA policies relating to the conduct of intercollegiate athletics and has been proceeding since its organization to dealing in deliberate fashion with various sections of those policy.

Consistent with its long-range plan, the commission next January will offer amendments to the NCAA legislation designed to tighten the academic standards, both for initial and continuing eligibility for intercollegiate athletics competition.

Initially student athlete eligibility has, since 1986, been governed by NCAA legislation known as Proposition 48. Under this legislation, in order to receive financial aid and compete as a freshman, an incoming student athlete must have achieved a 2.0 grade point average in a core curriculum of 11 high school courses and a 700 composite score on the SAT or a 15 composite score on the ACT.

Since the adoption of Proposition 48, the NCAA has been conducting a comprehensive study to attempt to assess the impact of the new rules on academic performance and graduation rates or, stated differently, to assess the predictive value of core grade point average and standardized test scores.

We have already supplied the subcommittee with the initial preliminary reports from this study, which cover only the two classes entering before the effective date of Proposition 48. One tentative conclusion of the most recent report is that an equally weighted average of core curriculum grade point average and standardized test scores provides the single best prediction of graduation in that the predictive value of these combined performers does not differ substantially on the basis of race or sex.

As further validated in the upcoming post-Proposition 48 studies, these conclusions suggest the continued appropriateness of the combined GPA/SAT present standard. There is, of course, another half to the eligibility equation—standards relating to satisfactory academic progress of a student at least once they are enrolled in the college or university.

Effective in 1981, the membership for the first time began to establish common rules defining satisfactory progress for eligibility purposes. The basic initial standard was satisfactory completion of at least 12 semesters or quarter hours in each academic term following enrollment or satisfactory completion of 24 semester or 36 quarter hours since the beginning of the student's last competition zone. With minor changes, this remains the rule today.

The NCAA legislation proposed by the President's Commission for adoption at the 1992 convention would tighten both the initial eligibility and the satisfactory progress standards. As to the former, we would require that, effective in 1995, perspective student athletes achieve a 2.5 GPA in a core curriculum of 13 high school courses, as well as achieving a combined score of 700 on the SAT or 18 on the ACT.

This proposal represents no change in the minimum standardized test performance but materially increases the requirement for core curriculum performance. Our proposed legislation also would authorize limited indexing of the core curriculum GPA and the combined test scores, thus a student athlete achieving an 800 on the SAT, 21 on the ACT would need only a 2.25 GPA to qualify for freshman eligibility, and one achieving a 900 on the SAT or 23 on the ACT would need only a 2.

As to satisfactory progress standards, the commission's proposal would require student athletes to have completed 23 percent of degree requirements at the institution by the start of the third academic year, 50 percent by the fourth, and 75 percent by the fifth. This change is designed to deal with the problem of student athletes falling so far behind in their academic requirements that graduation appears to be an unattainable goal by the time athletics eligibility is exhausted.

We would for the first time quantify the necessary level of academic achievement by student athletes by requiring that at the beginning of the third year a student athlete must have attained a cumulative grade point average equal to at least 93 percent of the average required for graduation.

And that the beginning of the fourth year, the full average for graduation, again, this would help assure that the student athlete, as he or she reaches the end of athletics eligibility, is within serious striking distance of graduation.

Our goal in proposing tightened initial eligibility and satisfactory progress standards is simple. We believe that current graduation rates for student athletes, even though they approximate those of students as a whole on most campuses are not acceptable, and especially so in men's revenue-producing sports. We are thus recommending eligibility standards which we believe, on the basis of available data, will offer the basis for material improvement.

I close by repeating my initial point. The Commission is in the reform process for the long haul, and our recommendation as to academic qualifications represents only the current step in that process. I am optimistic about our chances for success next January, but I am even more optimistic about the process of reform over the next several years.

Thank you, Madam Chairwoman.

[The prepared statement of Mr. Turner follows:]

STATEMENT OF

R. GERALD TURNER, CHAIRMAN
NCAA PRESIDENTS COMMISSION

before the

SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION
AND COMPETITIVENESS

COMMITTEE ON ENERGY AND COMMERCE

U.S. HOUSE OF REPRESENTATIVES

on

July 25, 1991

Madam Chairwoman, members of the Subcommittee. My name is Gerald Turner, and I am Chancellor of the University of Mississippi. I appreciate very much the opportunity to appear here today in my capacity as Chair of the Presidents Commission of the National Collegiate Athletic Association (NCAA) to discuss issues related to academic performance of student-athletes.

As I believe the Subcommittee is aware, the NCAA is a national unincorporated association of some 800 four-year colleges and universities dedicated to the promotion and regulation of intercollegiate athletics. NCAA members, which meet in convention at least once a year to determine NCAA policy through the adoption or amendment of legislation, are categorized into three divisions based upon the size and philosophy of the athletics program. In general, most of the largest football- and basketball-playing institutions are members of Division I.

For sake of simplicity today, I will discuss various NCAA rules as they apply in Division I. Different rules often apply in Divisions II and III; in Division III, for example, student-athletes may not be awarded athletically-related aid, whereas of course in the others Divisions such aid is permissible.

The NCAA Presidents Commission is a 44-person body comprised of institutional chief executive officers -- drawn from each of the three NCAA membership divisions -- which enjoys very substantial authority within the NCAA structure. Under the NCAA Constitution, the Commission may:

- require the undertaking of studies on intercollegiate athletics issues,
- place matters of concern on the agenda of the Council or Convention,
- require the convening of a Convention,
- propose legislation for adoption at a Convention,
- establish the sequence of consideration of legislation before a Convention,
- require roll-call votes on selected items of legislation, and
- approve the appointment of the NCAA executive director.

Since its organization in 1984, the Commission has exercised all of these powers.

The Commission has defined its highest priorities as being the integrity of intercollegiate athletics programs, the welfare of student-athletes, and the balance between intercollegiate athletics and other institutional priorities. It is an independent body in relation to the other entities in the NCAA administrative structure, but it works cooperatively with the NCAA Council (the policy body between Conventions), the NCAA Executive Committee (financial affairs), and the NCAA national staff. It meets four times a year; traditionally, the June meeting is the one at which the Commission finally formulates legislative proposals for the upcoming Convention of NCAA member institutions.

The Commission conducted its organizational meeting in June 1984, and at its second meeting, held in October 1984, the Commission took action to conduct a confidential survey of CEOs at all NCAA member institutions regarding integrity and economics issues and agreed to call a special NCAA Convention in 1985 to act upon proposals the Commission would develop from the results of that survey.

In the following months, the Commission developed a series of eight legislative proposals for action at the special Convention in June 1985. All eight were successful, and all by substantial margins. The special Convention attracted 199 chief executive officers, and numerous others dispatched a vice-president or vice-chancellor to represent them. Among the Commission proposals adopted were an institutional self-study requirement, the Division I academic-reporting requirement discussed later in this statement, the differentiation between major and secondary violations of NCAA legislation recommended by the House Subcommittee on Oversight and Investigations some years earlier, the so-called "death penalty" for repeat offenders, and an annual institutional financial audit requirement.

After the special Convention, the Commission reviewed other results in the survey of CEOs and began 1986 by identifying financial aid, academic integrity, and enforcement and compliance issues as its next major topics. Late in 1986, however, a delegation from an American Council on Education (ACE) committee appeared before the Division I subcommittee of the Commission with seven specific recommendations for Commission consideration and urged the Commission to take action in those areas. A second special Convention was held in June 1987 to deal with legislation derived from the ACE proposals.

While several of the Commission's recommendations regarding spring football practice and reductions in grants-in-aid in the various sports were not successful, the membership did vote to approve establishment of an 18-month National Forum on the proper role of intercollegiate athletics in higher education, as well as a series of research studies in that regard. It also adopted the Commission's proposals calling for studies of financial aid limitations, numbers of individuals involved on institutional athletics staffs, limits on recruiting periods, and the effects of varsity participation on the academic performance of freshman student-athletes.

The National Forum was introduced at that special Convention, and subsequent sessions were conducted at the annual NCAA Convention in January 1988 (featuring economic considerations in athletics); in June 1988 (emphasizing the NCAA membership structure, NCAA legislative and governance procedures, and financial aid), and in January 1989 (considering the effects of intercollegiate athletics participation on the student-athlete).

After the Forum ended, the Commission directed the NCAA national office staff to study the transcripts of all four sessions, as well as contemporaneous research findings, and to suggest courses of action to the Commission. As a result of that exercise, the Commission sponsored four successful legislative proposals at the 1990 NCAA Convention, dealing with disclosure of graduation rates as discussed below; reduction of time demands on student-athletes; reinstating the partial qualifier in Division I and permitting such individuals to receive need-based, nonathletically related financial aid, and permitting incoming student-athletes to receive nonathletically related financial aid to attend summer school prior to their full-time enrollment.

At the January 1991 Convention, the Commission sponsored certain proposals -- most of them developed by a group of

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Division I conference commissioners -- and actively supported numerous other proposals in what became known as the "reform agenda." Thirty-seven out of 39 proposals comprising that agenda were adopted by the Convention. Among the more significant proposals were those to further restrict recruiting contacts and evaluations; to require that academic tutoring and counseling services be made available to all recruited student-athletes; to require phase-out of athletics dormitories; to reduce the use of training tables; to reduce athletics time demands on student-athletes; and to reduce the permissible number of grants-in-aid by ten percent. Also adopted was a Commission-sponsored resolution requiring consideration at the 1992 Convention of legislation to strengthen academic requirements for initial and continuing eligibility.

One of the earliest Commission proposals, adopted by the membership in 1985, was to require institutions to report academic information to the NCAA annually, including admissions information, satisfactory progress data and graduation rates. This information was then published by the NCAA in statistical form, generally by type of institution and by geographic region. In general, these reports (the most recent of which has been made available to the Subcommittee staff), have shown that recruited student-athletes graduate within five years at a rate slightly better than the student body as a whole (in the most recent report, a median of 50% versus a median of 46.8%), but that recruited student-athletes in the sports of football (40%) and men's basketball (33.3%) tend to graduate in five years at significantly lower rates than others.

In 1989, legislation was introduced in Congress to require the disclosure of individual institutional graduation rate data. The NCAA originally testified against this proposal and requested the opportunity to put such a disclosure system in place without federal action. At the 1990 Convention, the Presidents Commission successfully sponsored legislation, overwhelmingly adopted, requiring the annual reporting of individual institutional graduation rate data, by race, sport and sex. Notwithstanding this step, the Congress passed right-to-know legislation last year -- to take effect in 1993 -- requiring individual institutional disclosure but permitting reporting of that data through a private reporting mechanism such as the one put into place by the NCAA. I understand that individual institutional data will be made public by the NCAA one full year earlier than required under the federal law, and I am sure that initial report will be submitted to the Subcommittee for the information of its members.

Before turning to a discussion of the Commission's current proposals for tightening initial eligibility and satisfactory progress requirements, it may be helpful if I put the Commission's current academic requirements deliberations into historical perspective.

The issue of eligibility of freshmen for intercollegiate competition is more than a century old, and predates formation of the NCAA itself. In 1889, the President of Harvard College suggested that freshmen should be ineligible, and a few years later, what is now the Big Ten Conference agreed to such a rule. In time, most of the larger institutions followed suit in the name of academic integrity, but the policy was by no means uniform.

In 1939, when the NCAA first established eligibility rules for its national championships, freshmen were declared ineligible, but only for championship play. It was not until 1964 that the NCAA adopted a rule affecting in-season competition by freshmen: to receive athletics-related financial aid and compete in-season, an incoming freshman would be required, on the combined basis of high school academic performance and a standardized test score, to "predict" achievement of a 1.6 grade point average in college. Under the rule, freshman were not ineligible, but were required to meet an academically-oriented standard in order to compete.

Adoption of the so-called "1.6 rule" was not without controversy. Critics generally fell into two groups: those who objected to the use of standardized tests on the ground they were inherently discriminatory, and those -- such as the Ivy League schools -- who felt the NCAA rule violated institutional autonomy on the issues of admission and financial aid. As the Subcommittee is undoubtedly aware, the first criticism has attended every effort -- up to the present day -- to include standardized test scores in any measure of eligibility for intercollegiate competition; the latter inheres in the nature of the NCAA as a voluntary association to which institutional members agree to accord certain powers which may erode their individual autonomy.

In any event, the 1.6 rule lasted for only eight years; in 1972, it was voted out of the NCAA rulebook over the back of claims by smaller institutions that they were losing out in the competition for talented athletes, and that the talent pool needed to be expanded. In place of the 1.6 rule was inserted the simple requirement that to compete and receive financial aid, an entering freshman must have maintained a 2.0 grade point average in high school. From the viewpoint of those of us primarily concerned with academic integrity issues, the new rule ushered in a decade in which -- because of the great variation in the quality of secondary school academic programs -- many unqualified or marginally qualified student-athletes were admitted on scholarship.

Then, in 1983, the pendulum swung back. At the urging of a group of institutional chief executives led by the President of the American Council on Education -- the NCAA members adopted the freshman eligibility rule that became known in common parlance as Proposition 48. The new rule stated that in order to receive financial aid and compete as a freshman, an incoming student-athlete must have achieved a 2.0 grade point average in a core curriculum of eleven high school courses and a 700 composite score on the SAT or a 15 composite score on the ACT.

The arguments in support of and opposing Proposition 48 were essentially the same as those heard twenty years earlier when the 1.6 rule was considered and adopted. To respond to the concerns of those opposing use of standardized testing, the delegates agreed to the concept of a "partial qualifier", which permitted athletically-related financial aid to be awarded to certain student-athletes not meeting the "qualifier" standard, (but still prohibiting competition as freshmen); this concept has, however, since been eliminated, and now only need-based aid may be awarded.

Since the adoption of Proposition 48, the NCAA has been conducting a comprehensive study to attempt to assess the impact of the new rules on academic performance and graduation rates, or stated differently, to assess the predictive value of core grade point average and standardized test score. The study focuses on the academic performance of student-athletes entering college in the years 1984 though 1988, that is, two classes before and three classes after the effective date of Proposition 48. When complete, the study will provide comparative data not only as to all student-athletes, but also by race, sex and type of sport (revenue vs. non-revenue).

We have already supplied the Subcommittee with the initial preliminary reports from this study -- which cover only the two classes entering before the effective date of Proposition 48. The major findings have already been widely reported in the newspapers, and were indeed available to the Presidents Commission at its meeting last month:

-- overall graduation rate within five years for white student-athletes (52.3%) was about twice the rate for black student-athletes (26.6%).

-- female student athletes graduated at a significantly better rate (55.9%) than males (42.3%).

-- there was no significant difference in graduation rates for males participating in revenue-producing sports than for those participating in other sports.

Although by definition the current findings do not compare results before and after the effectiveness of Proposition 48, they nonetheless have permitted at least tentative analysis of the predictive value of various indicators of student performance. On the basis of the empirical data obtained, the report concludes than an equally weighted average of core curriculum grade point average and standardized test scores provides the single best prediction of graduation, and that the predictive value of these combined performances does not differ on the basis of race or sex.

To this point, I have discussed the history only of NCAA initial eligibility standards, and of course there is another half to the equation -- standards relating to satisfactory academic progress of student-athletes once they are enrolled in college.

The history of these latter standards is much shorter: until 1981, NCAA legislation on satisfactory progress requirements totally deferred to the concept of institutional autonomy -- satisfactory progress after the first year was to be measured solely in terms of applicable regulations of each institution. This of course meant that substantial variation in satisfactory progress standards could, and did, exist among NCAA member institutions.

Effective in 1981, the membership for the first time began to establish common rules defining satisfactory progress for eligibility purposes. The basic initial standard was satisfactory completion of at least 12 semester or quarter hours in each academic term following enrollment, or satisfactory completion of 24 semester or 36 quarter hours since the beginning of the student's last competition season.

During the 1980's, the standard was refined in various particulars, including (1) defining satisfactory completion as maintaining a grade point average that places the student in good academic standing, and (2) requiring the student to select his or her major by the beginning of the third year of enrollment. Most recently, effective in 1991, NCAA legislation was further amended by requiring, as a condition of continued eligibility, that a student shall have completed at least 50% of the course requirements in a specific degree program by the beginning of the fourth year of enrollment.

The NCAA legislation proposed by the Presidents Commission for adoption at the 1992 Convention would tighten both the initial eligibility and the satisfactory progress standards. As to the former, we would require that effective in 1995, prospective student-athletes achieve a 2.5 grade point average in a core curriculum of thirteen high school courses, as well as achieving a combined score of 700 on the SAT (or 18 on the ACT). This proposal represents no change in the minimum standardized test performance, but materially increases the requirement for core curriculum performance.

Our proposed legislation also would authorize limited "indexing" of the core curriculum grade point average and the combined test scores. Thus, a student-athlete achieving an 800 on the SAT (21 on the ACT) would need only a 2.25 average to qualify for freshman eligibility, and one achieving a 900 on the SAT (23 on the ACT) would need only a 2.0.

Some observers have already questioned why, in light of claims that use of standardized testing is discriminatory, the NCAA should continue to use these tests as one measure of freshman qualification. At least as far as most members of the Presidents Commission are concerned, the answer lies in the fact that available data indicates that for all groups, the combination of GPA and test score provides the best indicator of the capacity to graduate, and that the variations in the quality of education offered by the nation's high schools are sufficiently great that we need a further comparative indicator of capacity for success.

Some others have criticized the Commission's unwillingness to carry the indexing concept further, as recommended by the NCAA's academic requirements committee, to permit grade point averages higher than 2.5 to compensate for standardized test scores lower than the current minimum. This decision essentially stems from the conviction that with only limited exception, students scoring below that 700 combined level on the SAT have little chance of being successful on the college campus.

Bear in mind, moreover, that we are talking here about the opportunity to receive athletically-related financial aid (aid available only to the talented few) and to participate in athletics as a freshman; the NCAA standards have nothing to do with admission to an institution or with the availability of need-based aid. The real issue is: at what point do we say that we will not permit athletic talent to represent a special ticket to financial aid? The presidents have responded that we should draw the line where there is no reasonable expectation -- in their view -- of academic success in college.

As important as are the Commission's recommendations with respect to initial eligibility, I ask that the Subcommittee not overlook the equally important tightening we have proposed with respect to satisfactory progress standards. If adopted, our proposals would require student-athletes to have completed 25 percent of the degree credit requirements at the institution by the start of the third academic year, 50 percent by the fourth, and 75 percent by the fifth. This change is designed to deal with the problem of student-athletes falling so far behind in their academic degree requirements that graduation appears to be a unattainable goal by the time athletics eligibility is exhausted.

Correlatively, we would for the first time quantify the necessary level of academic achievement by student-athletes, by requiring that at the beginning of the third year, a student-athlete must have attained a cumulative grade point average equal to at least 95% of the average required for graduation, and at the beginning of the fourth year, the full average required for graduation. Again, this would help assure that the student-athlete, as he or she reaches the end of athletics eligibility, is within serious striking distance of graduation.

Our goal in proposing tightened initial eligibility and satisfactory progress standards is simple: we believe that current graduation rates for student-athletes -- even though they approximate those of students as a whole on most campuses -- are not acceptable, and especially so in men's revenue-producing sports and we are recommending eligibility standards which we believe, on the basis of available data, offer the basis for material improvement.

It is too facile for us to say, as have some, that we are trying to put the "student" back in the term "student-athlete" -- for the fact is that the vast majority of college students engaged in intercollegiate athletics have themselves placed athletics into the proper perspective as part of the postsecondary educational experience. We are, however, attempting to increase the assurance that all student-athletes on our campuses will participate in and meaningfully benefit from a serious course of study realistically leading to a degree.

The Commission has some confidence, Madam Chairwoman, that our 1992 proposals will be successful. Last year, we aggressively sought support for our "reform" proposals from the CEOs of all member institutions -- it is of course the CEO who under NCAA procedures controls the institutional vote -- and our colleagues responded in unprecedented numbers. We intend to be no less aggressive this year, and we believe the result will be a significant step forward in maintaining the proper balance between athletics and academics.

Thank you for your attention. I will be pleased to answer your questions.

Mrs. **Collins**. Thank you very much. Those two bells that you heard ring means there is a vote on in the House of Representatives, and so for that reason, we are going to have to recess for 10 minutes, and then we will come back.

[Brief recess.]

Mr. **McMillen** [presiding]. I think our next panelist is Dr. Walker. I presume you passed around these Olympic pins, and as a former Olympian, I am delighted to wear these with pride.

STATEMENT OF LeROY T. WALKER

Mr. **Walker**. I have one representative of the Barcelona games, and one for the work we are doing in Atlanta.

Mr. **McMillen**. Your full statement will be included in the record. Go ahead and begin.

Mr. **Walker**. Thank you very much, Tom. You have my written summary. In track and field, being governed by the stopwatch and the tape, I will try to beat the bell that has been going off. I would like to simply summarize three points that I made in my written presentation in the time allotted me for this oral, and I would like to do it from a practical point of view.

One has to do with what I call the significance of raised expectation and the problem of discipline among our athletes as expressed by Chairwoman Collins in her introductory remarks. If you pardon the personal reference, not to prove greatness or success, but I think it is the thing that has shaped my reference with regard to the student athlete and how I have dealt with them over nearly four decades of coaching.

I was fortunate enough, not through any greatness or anything, but to play three sports, win 11 varsity letters, make All-American in football, All-Southern in basketball, and yet finish in 3½ years. I think that came because of the expectation of my coaches, and the demand by those coaches that I attend class because it was expected in those days that we finished in 4 years, not 5 years.

I think, too, I was very much influenced a couple of decades ago by one of the actions taken by an Ivy League leader when they admitted a number of students, I think 100 in number, that did not ordinarily meet their standards, but because of not identifying them, not giving them a Proposition 48 identity or any other identity, but giving them tutors and proper motivation expectation, 80 percent of those individuals who did not make and meet those expectations and standards passed, several of them with honors.

I think, too, my attitude toward what can happen with the student athlete is also influenced by the fact that in those 35 years of coaching football, basketball, and track and field and dealing with thousands of athletes, I had only 13 of them that completed their full years of eligibility and not graduate.

And so I think that the coach has a role here, which I know you are talking about legislation, a lot of other things. But because I come from the practical side, I am talking about the coach, and as the coach, I have always had two practices a day, 1½ hours on the field for track and field, and 7:00 to 9:00 in the library, where all of my other students who were better students could help those who were not quite as good.

I think another point here, as mentioned by several of the others is, I think we must reconcile this swing of the pendulum between what I refer to as the laural wreath concept and the marketplace concept. That laurel wreath—the marketplace, as you know, the athlete played for the love of the game and did it within an educative experience and an educative environment.

All he or she wanted was just the laurel wreath as a reward, and we have moved from that concept over to the marketplace where the athletes simply serve the system, a system that has to survive with a multi-million dollar budget, and which I think, in large measure, has caused many of our coaches and some admissions within the athletic department to take liberties with fiscal and academic integrity.

But when you look at that few, I remind the panel that there are 90 percent of all the others that are doing good things. Many of them are in this room. I don't think, Representative McMillen, that we are going to ever go back to the laurel wreath concept.

But somewhere in the swing of those two pendulums, I think we can develop sanity in sports and accomplish all the things that we want to and not to make excuses for the athlete, which reminds me of the young man that killed his mother and father in cold blood and then threw himself on the mercy of the court because he was an orphan.

We tend to do that with some of the things that we talk about when we look at our problems. We didn't get here suddenly. If you look at the statements made by President Elliott of Harvard over 100 years ago, and I would like to record that statement, he says colleges are presenting themselves to the public, educated and uneducated alike, as places of mere physical sport and not as educational training institutions.

All of us are also familiar with the Carnegie report. We didn't get here suddenly, it is an evolvement over a long period of years, and we are not going to solve the problem suddenly, either.

I think, as Chairman Collins indicated, we have to do something about the retention situation. And I remember when we talked about Proposition 48 in 1986 down in New Orleans, my argument was I think that the people can do well because I am not wedded to SAT as a single barometer as to whether people can succeed in an educational environment.

But I do think if you don't do something about them once they are on your campus, in terms of motivation and raised expectations and better tutoring and better discipline and keeping them in focus, because we know the figures from NFL, 4.5 million young men playing high school football, maybe 39,000 of them will play in the college program or junior college program, and less than 1,500 will get into the pros' computer, probably 500 drafted, and less than 100 are going to make it.

And so the coach that is reasonable and the coach that is thinking is going to make sure that that athlete has another option, and that other option generally is a degree to which he or she can apply their skills.

I don't want to get into the argument about admissions. I think, too, we all should recognize that a lot of individuals that are deemed 48's are doing well once they are getting into the environment where tutoring has been a part of their academic pursuits, but also keep in mind that 48 is not a standard; 48 is an eligibility requirement. We argued about that as an admission standard which really it is not.

I have given each of you at the table and some others some Olympic pins, because unlike the problems with the NCAA, it is sort of like motherhood and apple pie, and I don't mean being associated with it openly. And so you have the pin for the Barcelona games which I will be serving as chef de mishal for the entire U.S. delegation and also for the 1996 games in Atlanta where we are putting together 27 sports.

I am indeed pleased, Madam Chairwoman, to be a part of this, and I do believe that you can look at some practical things to solve our problem because it is happening all the time, and there are success stories going on all around this community.

Thank you.

[The prepared statement of Mr. Walker follows:]

STATEMENT OF LEROY T. WALKER, CHANCELLOR EMERITUS, NORTH CAROLINA CENTRAL UNIVERSITY

Madam Chairwoman and Members of the Committee: I am indeed appreciative of the invitation to participate in the series of hearings on several subjects which have provoked serious concern among athletic leaders, educators and lay persons alike.

The items which are the subject of this hearing—admission standards, satisfactory progress, and graduation rates have received considerable attention by (NCAA) and (NAIA) leaders, university administrators, the Knight Commission, coaches associations and a host of other constituencies. While there have been many advocates of sound procedures to change the status quo, in too many instances the real problem has been obscured by many who engage in double-speak. The action is comparable to the report on a surgeon whose patient died because of faulty surgical procedures. The hospital board report read: "the patient's condition resulted from diagnostic misadventure of high magnitude."

My concern has been forged by three points: two influenced by my experiences as an athlete and coach to which I refer not to prove any personal success but to merely give credence to a firmly held belief. The third point illustrates a contention which I have advocated as a viable option to reduce the academic casualties among student athletes.

As a student athlete at Benedict College, I participated in three varsity sports: football, basketball, and track and field; earned eleven Varsity Letters, made All-American in football, All-Conference in basketball, yet finished a Bachelor of Science degree in 3½ years. From these undergraduate days I have held tenaciously that the student athlete with moderate ability under demanding leadership with high expectations could complete the university degree in at least the 5 year period allowed by NCAA regulations.

The second point which has given me hope is the fact that the student athlete who establishes sane priorities can respond to demanding academic expectations. In more than three decades of coaching thousands of football, basketball, and track and field student athletes, only 13 of them have failed to graduate after completing their 4 years of eligibility. There was nothing magical about this. I simply had two practices a day: one of 1½ hours in the afternoon, and the other from 7 to 9 p.m. in the library with mandatory attendance.

The third influencing factor which reinforces my position is that the student of but moderate ability under appropriate tutoring and with self discipline can succeed in the most rigorous curriculum. Harvard University took a bold step several decades ago when it admitted approximately a hundred students who did not meet its objective admission standards.

Without labeling the students and identifying them as non-qualifiers (as we now do with Prop 48) young men and women, Harvard simply properly motivated them, raised their level of expectations and provided for each one subject-specific tutors. At the end of the 4-year experiment, most of the students graduated, some with honors. What a great example of the positive effects of good teaching, high expectations, proper motivation and not programming students to fail.

Rather than to face the fact that Proposition 48 which requires a mere SAT of 700 or ACT of 15 and a GPA of C is not an admission standard but, instead, is an eligibility requirement, many opponents have turned their attention to arguing the shortcoming of the SAT as a barometer to determine a student's ability to do college or university work. No one who understands the essence of any objective test with its limitations would argue that these tests do not have tremendous shortcomings.

The real issue is the attempt to admit the student athlete in to a college environment that will provide a window of opportunity for him/her to succeed at the same level of the other students, to retain a reasonable average as a result of nominal reading and mathematical proficiency and to graduate at the same rate of the rest of the students.

The wide discrepancies in the graduation rates of student athletes is a reflection of the existing ills in many of our institutions.

The graduation rates vary as much as 100 percent of football and basketball players graduating in a period of 5 years to as few as 20 percent. In the case of one institution which has been a perennial participant in the Final-Four in basketball, it is reported that not one starter graduated after playing out their eligibility.

As reported by the Knight Commission, "in the typical Division I, college or university, only 33 percent of basketball players and 37.5 percent of football players graduate within 5 years." There are evidences of much worst percentages. Unfortunately, as recently reported in a survey, the graduation rate of women basketball players has dropped as the sport has gained more TV exposure and greater marquee value.

The evidence supports the contention that about two thirds of the student athletes in big-time, revenue producing sports do not receive a college degree within 5 years of enrolling at an institution.

It is ridiculous for some secondary school coaches and too many collegiate coaches to lower the academic expectation of the athletes by reinforcing the myth that professional sports will await them with open arms. The facts are that in football 4.5 million young men play high school football. 39,000 will play college ball, 1,500 will make the professional recruitment list, 500 will be drafted, but less than 100 will make it in professional football. The obvious answer is for coaches to insist that players obtain another option—a degree.

We have moved from the laurel wreath concept of athletic participation to the marketplace concept. The laurel wreath concept of athletics emphasizes participation as an activity for its own sake within the limits of an educative experience, the welfare of the athlete is paramount. The laurel concept subscribed to the platonian philosophy that athletics should be conducted for all youth not simply for that minority highly endowed by nature.

The marketplace concept tends to operate on the principle that the athlete serves the system a multi million dollar business enterprise.

The attempt to utilize the athlete's talents in the marketplace concept has created a large part of the problem. While I do not think we will ever return to the pure laurel wreath concept, I think it is possible to achieve sanity in sports even in the marketplace arena. The President must have leaders who are advocators of academic and of fiscal integrity remembering that athletics (sports) are neither good nor bad, it is people that make them so. The CEO must be supported by the Board of Trustees. There can not be, must not be, a slavish implementation of the marketplace concept.

We have not arrived at this position suddenly. The status of intercollegiate athletics was described by President Elliott of Harvard more than 100 years ago when he wrote:

"Colleges are presenting themselves to the public, educated and uneducated alike, as places of mere physical sport and not as educational training institutions."

The Carnegie Report issued decades ago described athletics as "over commercialized, too much in the entertainment business and the victim of infectious unethical practices".

The current status of intercollegiate athletes did not suddenly appear. The solution will not be achieved quickly; it will take time.

I think the solution to the academic problems can be found in the Knight Commission's one-plus-three principle: Presidential Control over programs which adhere to academic integrity, fiscal integrity and are subject to external certification.

All of us who have been associated with athletics appreciate the support of our Congressional leaders, but I don't think legislation is necessary if the administrators of our programs do their job in the future as recommended by the Commission on Intercollegiate Athletics.

Mrs. **Collins**. Let me begin with you, Dr. Walker. I am concerned about the SAT tests that are given, and I am wondering if you think they are culturally biased.

Mr. **Walker**. Madam Chairwoman, I think they are not only culturally biased, I think they are geographically biased and may be a whole other set of biases we have not yet identified. But that does not necessarily mean that until some effort is made to do away with it as a barometer, and not a single barometer for trying to determine the ability of a student athlete.

I think we have to cope with it, and I think that coping, we try to deal with it in North Carolina by insisting of the graduates and also the courses that students must succeed in before they are admitted to our system.

The SAT and the ACT, unlike any other objective tests, will come under close scrutiny and a lot of criticism about individuals who can pick at it. But keep in mind that the NCAA says you only have to have 700 of that 1,600, and now you have gaged it down according to the GPA.

My concern is the thing that happened with Cleve Hammer, the superintendent in Durham, NC, when he simply said to the students, if you don't come to class, you can't participate in sports. If you don't come to class and pass, you can't play in the band and you can't sing in the choir, you can't do any of these other, quote, extra curricular activities, which I have problems with as the name anyhow.

I think if they contribute to life skills, they ought not to be called extra curricular, but it does have bias, but I think we have to have something to determine whether or not a student can succeed in the educational environment, and that is one of the barometers that they are using.

I think if they don't misapply and have other things that are involved in determining whether or not a student can succeed in the educational environment, I don't have any problems with it. A lot of people have problems with the numbers, but I don't necessarily, but I accept the fact of its cultural bias, its geographic bias and some others that depend upon where the student is that takes it.

Mrs. **Collins**. Let me ask you this, then. Do you think that a student who does not have the ability to get a good score on the SAT should be admitted to college?

Mr. **Walker**. I think other things could determine that. During my time as chancellor, I had a program that I called the valedictorian, and there was a young lead in Florida that had a 3.9 average in all the good courses that we wanted here to have at North Carolina University, physics, chemistry, math and all of the college preparatory courses that could never handle the SAT.

And when my admissions office said, Well, what are we going to do about it? And I asked her, about what? And she said, her SAT score. And I said, Well, you go offer her the scholarship, and I promise nobody will know you asked me that question.

There are other things that can determine, I think, whether or not a student can succeed as we are learning for some of these students that are Proposition 48's. They are getting them into an environment—my problem is what you indicated in your remarks, the retention part is what bothered me.

When they turned that down in 1986, that bothered me more than what we were doing with 48, when they could get a student in and not be able to make sure that that student has the proper tutors, that he or she is disciplined in terms of learning how to manage time, which is what kills most of them.

And I was delighted to see George Raveling and the basketball coaches come in to talk about 20 hours because we take up too much of the student's time in matters that are not necessarily skills developing in order to make sure that they are busy all the time and generally for 12 months. If you ask most football coaches what are the three major sports, they will tell you football, basketball, and spring football.

Mrs. COLLINS. Well, this is another question along the same lines. Basically, Historically Black College do have a reputation for admitting those students that don't have the best academic preparation for college and turning those same students into bona fide college graduates within the 4 or 5-year period of time.

And so I would like you to tell us, if you can, what methods black colleges use to achieve these results and whether or not these same methods can be used to help academically deficient student athletes.

Mr. WALKER. I think one advantage of black colleges, which they decry sometimes, is the fact that they are small, most of them, in enrollment, and individuals are not necessarily numbers and get a little bit more attention.

I am living with that right now. I have one granddaughter that is in engineering in a school of 25,000. I have another one that is studying international affairs that is in a school of 2,500. And what they are getting and the attention they are getting is the difference between chalk and cheese.

I think most people don't understand what that reference means, but I think that the essence of this is what do you do with them when they are on your campus, do you make sure that they are in focus? Do you make sure that they follow a career pattern?

Do you make sure that they get proper tutors? Do you make sure that they understand that the end product of this is probably to get a degree, and not only a degree, but one which keeps in contact with what the work force is going to be like 10 years down the road from them because most of our curricula in colleges now are outmoded. We plan for 4 years, and that is not going to be what the student would be involved with.

Mrs. COLLINS. Thank you.

Mr. McMillan.

Mr. MCMILLAN. I am sorry I missed your testimony, Dr. Walker, but that is a very interesting point. I am not sure we give non-athletes the kind of attention they need to get them through school when 50 percent of those in college on the average don't finish in 5 years.

And it gets back to the line of questions that we were on which has to do with testing. I don't think anybody argues—I certainly don't think the SAT score is without bias. Maybe it is impossible to create any kind of standardized test without bias. I don't know that. I don't pretend to know.

But Proposition 48 is basically using that as a minimum standard; isn't that generally agreed? I guess I would have to ask the question, if there are institutions who are members of the NCAA whose admission standards do not include the minimum standards envisioned in Proposition 48 as applied to athletes, is that—anyone can answer that question.

Mr. TURNER. I don't know of any. Louisiana recently passed new requirements. Heretofore, their admission standards simply required either a high school diploma or a GED. But just a few years back, they did pass some admissions standards. And I believe I read somewhere, but I couldn't say, that they were one of the few remaining States at that time that did not have admission standards other than a high school equivalency.

Mr. MCMILLAN. If that were the case, in the application of Proposition 48, if they were members of the NCAA, they would have to accept a minimum standard that would then be—whatever it is, they have or an absence of a standard, if that is the case.

Mr. TURNER. One other thing, too, Congressman, the graduation rates, if you follow students all the way through, we have at our institution that were as of those entering the freshman class about 48 to 50 percent of them will graduate at our institution.

We find, depending upon the study, that between 20 and 25 percent go on and graduate at another institution to where roughly two-thirds to 70 percent of the students that enter Ol' Miss as freshman eventually graduate, but they just may not with us.

We find that a good number will transfer out each year in good academic standard and either attend something at home or change majors in an area we don't have, so the overall college graduation rate of kids entering as freshman is really higher than the figure at any one institution.

Mr. MCMILLAN. Dr. Friday probably will recall, but back in the 1950's, the University of North Carolina, there were no SAT scores. And I am not sure what the admissions criteria were, but they were fairly wide open at that point, but you did have to attain certain academic standards within the first two quarters.

We were on a quarter system then, and my recollection is that well over half of the freshman class was not there at the end of the year. That was the winnowing system that was in the first year of school. I am not sure that is the right way to do it. I am not advocating that, but——

Mr. FRIDAY. It happens all too often.

Mr. MCMILLAN. It may still exist in a lot of cases. But, you know, despite the misgivings, I think this is the point you were making, Dr. Walker, the concerns about the SAT, it is the only standardized test that we have.

There may be ways to use it or try to reduce whatever bias may be in it to the extent we can, but it is the only test we have got to go on at this point.

Mr. WALKER. For years in the conference that I was president of, we had a Dickerson rating system that some of the people in athletics may remember, and people yelled and screamed about it because it weighed the level of competition.

You got more points for beating a Division I team, even tying a Division I team than beating a Division II team, and people screamed about it. My only answer was, until we can devise a better system, we are living with this one.

I don't see any great movement to get rid of the SAT. We talk about it, but my concern with the minority student, which is why I put some of this back on the coach, even in his high school days, and unless something is going to be done about replacing it, let's try to prepare them in terms of math skills and communications skills so we can do something about the 700.

Mr. **McMillan**. You made the point about the capacity of small schools that focus attention upon the student, which in my experience, I think is absolutely true. And I wish we could focus the same attention on all students that we tend to do on student athletes. We do so because we have got a particular interest in maintaining their performance level because of all the other things that are attractive about successful athletic teams. Maybe we give that kind of focus to them in some of the larger universities, whereas other students that are non-athletes don't get that kind of attention.

Mr. **Walker**. A big investment in that.

Mr. **Turner**. In the mid-1980's, the State of Mississippi passed increased entrance standards for the eight colleges and universities within the State system. These were all related to—they did not change the standardized test score, but they moved up to three science courses that you had to have, and they could not be one—one of those could not be general science or physical science; it had to be biology, chemistry, and advanced biology or physics, whatever else, 3 years of math, 4 years of English.

The first graduating—they announced that 5 years ahead and gave the schools time to work on it. The first group of seniors under that rule for the statewide—when they took the ACT, and Mississippi is generally an ACT State—the average of all those taking it that year was 1.2 points higher than the year before, and that has been maintained. So these tests are susceptible to increases in the core curriculum underpinnings of them.

If the kids take the extra math course, take the extra science course that corresponds to a group of questions on those tests, then they do better. And so the whole, overall State average went up 1.2 just by increasing it.

So the core curriculum idea is valid in terms of driving preparation, not only for tests, but for doing the kinds of school work that they will need to do once they get into a college or university.

Mr. **McMillan**. Thank you.

Mrs. **Collins**. Mr. Tom McMillen.

Mr. **McMillen**. Thank you, Madam Chair.

LeRoy, do you think that the standards for athletes should be the same for non-athletes; any special admit policy for athletes should be parallel to a special admit policy for non-athletes?

Mr. **Walker**. Well, one of the problems you have is looking at the time factor, which is why I was pleased with the 20-hour situation that the basketball coaches recommended, although in the Olympic program, you know, we got beat up on because we say we are going to affect the Olympic sports. They did not read that it says "demand time by the coach."

Tom, I think one of the problems, when you look at the admit standard being the same, you look at the average student that is not in that all-day program, you know, 9 months a year; and sometimes, even in the summer, is taken up by his—by the athlete.

I would say yes, that the student/athlete ought to be equated, which is why we made that change in the Knight Commission. And it was recommended to us by the basketball coaches.

But I think the fact that so much time is asked of the athlete in order for him or her to raise their skills level up to where the coach wants it, that it is not a level playing field for that athlete and the regular student, and so I think that the question is being raised here by Mr. McMillen in terms of more time for all students.

Some of the athletic departments have tremendous tutorial programs. It is hard for me to imagine how the athlete fails with all the things that are provided for him or her by some of these institutions.

Mr. McMILLEN. Moving on, Chancellor Turner, the Federal Trade Commission, as you know, is currently suing the College Football Association for violating antitrust laws. If the FTC is successful in this suit, where do you think this will leave college sports? If this contract is voided, what are the consequences?

Mr. TURNER. I think what you will see is primarily conferences that may, in fact, go together. It depends on what the ruling would be.

I am hopeful that we won't lose it, but I would assume that you will simply see groups of schools that existed for reasons—pre-college-football TV—dealing with their own contracts, like the Southern Conference, for one.

Mr. McMILLEN. Bill, do you think that the college sports would be better if you had an antitrust exemption in that there was more control of television product and control of moneys, or do you think this fragmentation, this increasing fragmentation is conducive to the Knight Commission recommendation?

Mr. FRIDAY. Well, I think that if we had the time and we are given the time to implement what the Knight Commission has proposed here, that we would solve most of the problems we are talking about here, in the long perspective, as Mr. Turner has just indicated. I think that, for example, the legislation you talked about earlier here, your bill, you incorporated in there quite a few of the positive recommendations that are in the Knight Commission report.

I think the fact that this bill is now before us is catalytic in its effect. It has focused, it has brought the attention in. That is good. It has extended the debate. And the only place where you and I would reasonably differ is, I don't think it is the business of the Congress to prescribe certain things.

Mr. McMILLEN. Well, carrying on there, if your—I appreciate those comments. Do you think that the revenue distribution plan that is offered by the NCAA I pointed out, in terms of the total revenues, the total pie, do you think that is really sufficient to change the incentives in the system which cause academic cheating, recruiting cheating, and all the like; or are we going to continue to pile endorsement upon endorsement to deal with the problem? Do you think that the revenue distribution that is being proffered by the NCAA is sufficient?

Mr. **Friday**. No. I think, as we all heard in the commission, that has got to be restudied. There is just too much talk about it, too much feeling about it. How that answer should be evolved, I don't know; I don't possess the wisdom to say.

Mr. **McMillen**. Chancellor Turner.

Mr. **Turner**. I have a committee that—appointed in March, of the Presidents' Commission—that is reviewing that and will have a report to us in October.

Mr. **McMillen**. So you would favor a more egalitarian distribution of television revenues?

Mr. **Turner**. Well, I think the breakdown we have now is a very defensible one, and what the Presidents' Commission wanted to do was to see if they felt like there needed to be some change of it.

I think there is a very good blend that has to be maintained between those institutions that participate, but aren't really successful over a period of time, and those that have been. I mean, you have got to blend those two to where there is some balance across the spectrum. And I think that the NCAA's recommendation on the first year of those championship moneys was a very good start, and I will be interested in seeing what my colleagues feel like when they really get into it and make their report in October.

Mrs. **Collins**. Mr. Towns.

Mr. **Towns**. Thank you very much, Madam Chairlady.

You know, Proposition 48, many people feel that it is not working, and the reason they feel that it is not working, some people just don't have a lot of confidence in it, is the fact that you bring a student into a university and you keep him or her there for a year. And then, of course, after the year, the person—if the grades are good, the person then will be able to participate.

Folks that are really into education, are very serious about education, are saying that if the NCAA and the participating schools are really committed to educating young people, why not put them in a prep school for a year prior to bringing them into the university and pay for the student to attend a prep school; and that shows serious commitment on the part of the university to really work with the student to get him or her a decent education.

What are your views on that?

Mr. **Turner**. I think that the community and junior college system, at least in our State, has that responsibility to take a student that has not prepared himself or herself, for either personal reasons or the quality of their high school or whatever, and to work with them to develop those particular skills. They have a core curriculum that they must pass during that period of time.

And so I feel like—that at least within our State, we do have a very good, solid, strong community college-junior college system, that they serve very well that role and allow that student to participate while he or she is building up those academic strengths that you were talking about. So I think there is somewhat of a system in place now, without creating another one, that can address the issue that you described.

Mr. **Towns**. Dr. Friday.

Mr. **Friday**. I would agree with what he has just said. I think you can look at what has happened on the 48, and the year it was discussed until the result last year. I think the percentage has declined to—what is it, Gerald? Do you remember the test under 48, the rejection? Below 10 percent.

Mr. **Turner**. Yes, right, it is improving.

Mr. **Friday**. It has not turned out to be what was feared so much would occur. And I think we try to do in State systems certainly everything you suggest.

The idea is to educate more people, not fewer, and we need to be doing this as a matter of governmental policy in everything, not just sport. And this is what community college systems exist for in most States.

Mr. **Turner**. What 48 has done and what our proposals for 1992 are trying to underscore is to really inform a young person and his school clearly what we think it takes to be academically successful at our institutions and to put the pressure on them. Otherwise, you are going to see in some places—not many, but in some places, coaches keeping students out of demanding high school curriculum offerings so that they would stay eligible in high school.

And I think it really starts—has to start down early. And when you announce these kinds of credits, you are telling a young person in the eighth or ninth grade, you have got to start being serious about this; and you are telling those counselors in the junior highs, you have got to be serious about this, because we have told you now what is going to be required to be minimally successful in our institutions.

And so I think it is important that the pressure go down, as well as be directed toward us in terms of continuing eligibility and so on. We have got to get that message—and I think all of us are starting to work with the institutions even more in our States to help them get their young people prepared.

Mr. **Walker**. Mr. Towns, I think that it would be very helpful to us and to those athletes if the Presidents' Commission would simply, since they have to be approved by the NCAA, tell these announcers to stop identifying and labeling these individuals going down the basketball court as a Prop 48. They don't need that. They have accomplished what that rule was supposed to help them accomplish; they are now meshed into the student body; they don't need to go through the next 3 years being identified on the campus as a 48.

Mr. **Towns**. Right. I agree. I think that is an excellent point. You mentioned the fact that tutorial programs are all over the place. Is that something new?

Mr. **Walker**. No. It is applied differently at institutions. Some institutions have very elaborate tutorial programs that are in the athletic department. I have visited the one at UNC, Chapel Hill, with language labs, and you have to really work at it, as an athlete, to fail, they are offering so many things.

And so—but it is expensive, and so it is a part of the athletic budget, because they have not only the tutors there, by subject matter; they have them there by sport and by subject matter. And you can get individual attention.

It depends on the resources of the institutions as to how much of that they can really afford to do. All institutions have it in some form, but it is more limited in some, as Mr. McMillen has indicated, than it ought to be, even for the regular student body.

Mr. **Turner**. To underscore that commitment, of course, we passed at the 1991 convention a requirement that institutions do have academic counseling available for athletes, and even as a part of the distribution from the basketball championships that $25,000 be given to each institution directly to use in that academic counseling effort for the institutions.

So those are two things to underscore the commitment and the concern that the Presidents' Commission and the membership in general have for academic success.

Mr. **Towns**. Not that I don't believe in terms of your——

Mrs. **Collins**. Finish your question.

Mr. **Towns** [continuing]. In terms of your involvement, but I just sort of find it interesting that when my colleague and I were doing the Student Athlete's Right to Know, that people complained about the fact that you are going to force us to have to spend money in tutorial programs and bringing on additional staff, and that is going to cost us money.

I mean, that was a reaction to the university around the country, calling us to say that that was a problem, that it was going to cost money, because we were saying this does not cost money. But now, listening to you, that you are saying that universities have it; but I say to you that based on information and the feedback that we got, a lot of universities do not have such programs.

And people are saying that you want us to have a program like Georgetown, where you have somebody to follow people around and ask them to do their homework and home assignments and mail them back to the university, fax this and fax that. We are not going to do that. And, of course, we say, well, that is the reason why we want this legislation to pass. And, of course, some people say, well, if you don't have sanctions with a lot of teeth in it, it won't work anyway.

We say all we want to do is expose the universities that are not doing what they are supposed to do. I just find that very interesting.

Mr. **Walker**. Mr. Towns, you have to remember the sport is neither good nor bad; it is people that make it so. And you have got to get the right people in these programs to make them work. Legislation alone will not—it is very difficult to legislate more reality. It will help you go the right direction, because the laws will tell you what to do. I don't particularly find myself happy paying taxes in April, but that is what I have to do. So that legislation shapes morality.

But you can get this done on line so that the individuals will keep focus; and many of the institutions are doing exceptionally well with that tutorial program, but I tell you it is really related to resources and the distribution of your resources.

Mr. **Towns**. Also keep in mind with the ACT to the 15 and with the Proposition 48 that you have to make 700 on the ACT or else you will be a Proposition 48, that you can't measure motivation, you can't measure it.

Thank you, Madam Chairperson.

Mrs. **Collins**. The time of the gentleman has expired. Let me ask this question to either or all of you, and that is that, along the lines of Mr. Towns' questioning, you mentioned, I think, Dr.

Turner, that you have initiated a program in Mississippi where students know that they are going to—if they are leaning toward going into academic sports that they are going to have to take certain courses. And I believe, in response to a question from Mr. Towns, as well, the response was that many of the community colleges and junior colleges are supposed to pick up the slack where there are students that aren't quite academically prepared for college.

Now, the military academies sometimes face the same situation. We have found, and I have found in my district particularly, that there are students who are classified at the top of the class in some of the neighborhood schools, high schools. Unfortunately, their preparation for college is not very good, because the standards in the high school as a whole tend to be low. And when we have sent those students applications into military academies, we find that if the student is deemed to be—to have the ability with just a little more education, a little more preparation to perform well in a military academy, those students in the Army are sent to Fort Monmouth for a year—that is in New York.

The Air Force Academy has a prep school that they have right on the grounds of the academy for a year, and after that year, if those students are then able to—are thought to be able to handle the academic requirements at these military academies, they then become plebes and are admitted.

I am wondering—since I am told that the NCAA gets zillions of dollars from athletic sports, I am asking the question, should that be a possibility of NCAA putting together a university type or prep school itself for these students who have academic ability, but who haven't had the kind of academic training in their high school years that would prepare them to be able, hopefully, to graduate and not to be looked upon as 48's when they hit the school they are going to.

Why don't we start here and go right down the line.

Mr. FRIDAY. Well, the first consideration here is that in a public institution, when you create a special program and finance it in a special way, you have to meet the test of the constitutionality of such an undertaking, whether or not every young person with the same academic status would have the right to attend. And that is a very important point to remember when you are dealing——

Mrs. COLLINS. I am sorry. They have just given me a note about something else, and I didn't hear your response. Would you repeat it, please?

Mr. FRIDAY. I said, in public institutions you have the problem of how far you can go in creating special preferential programs, which this would be, with public funds, and not make it available to all students similarly situated.

Mrs. COLLINS. It would be available to all students similarly situated. You don't have all students preparing to go into college sports. The recruiters don't go to all students and say, I want you to come and play basketball for me. They go to those students that they think have the ability to play basketball and make money for the universities.

Mr. FRIDAY. Well, I am sure the West Point program has a well-financed machinery behind it.

Mrs. **Collins**. Well, I think the NCAA has a well-financed machinery behind it, too, doesn't it?

Mr. **Friday**. But you are talking about an institutionally driven admissions policy, because if you are dealing with an individual freshman applicant, the particular institution to which he or she wishes to apply is the standard that has to be met, not some general admission training program that could apply universally.

That is the problem here, of individual institutional standards.

Mrs. **Collins**. Are we talking about the possibility of graduation rates?

Mr. **Friday**. I think you have to do what he has suggested and we have done in North Carolina.

Mrs. **Collins**. The problem is that the community colleges and the junior colleges haven't met the need. If they did, we wouldn't be here right now having this hearing on graduation rates.

Mr. **Friday**. That opens up the whole question of funding of public education, wherever you put it—public schools, community colleges, universities. It is not being done adequately; we all know that. We are not financing the training of our youth in this country the way we should, and what we are seeing is just one manifestation of it with the athletic problem.

From what I know, the boys and girls who participate in athletics get more, by far, in tutorial experience than any other student, because it is in the interest of the program that it be that way, and money is put there to do it.

Mrs. **Collins**. Well, if they get all this tutorial experience, why isn't the graduation rate higher?

Mr. **Friday**. We graduate every student that plays basketball at Chapel Hill.

Mrs. **Collins**. On the average, it doesn't happen that way. I think the USA Today—and who else did a study on that—and the GAO, General Accounting Office, did a study that said that is not the case.

Mr. **Friday**. Well, that could be. I don't understand or know what basis of comparison—I can only speak for what I have been responsible for. But Coach Smith's basketball players, all of them hold degrees.

Mrs. **Collins**. But not on the average.

I want to go now to Dr. Turner. What do you think about the NCAA putting together a prep school, since they have all this money for all these students that they want to see playing college sports, for a 1-year period, like they do in the military academies?

Mr. **Turner**. I think the stereotype of that academy would not be what you would want. If we talk about kids saying they are Prop 48's and that that stereotypes them through time, if they have gone to that academy, the only reason they would be going is if they were a Prop 48. I think the difficulty of implementing that and getting the kids—NCAA would not be able to put one in every State.

Mrs. **Collins**. You don't need one in every State. You only need one. The military academy only has one—the Army has one at Fort Monmouth in New York, and the Air Force has one right on its school grounds.

Mr. **Turner**. You ask a kid growing up in Jackson, Mississippi, would he rather go to Hinds Community College or to an academy, wherever it is, I would think most of them would choose to go to Hinds Community College and go ahead and play while they are there and be doing the kinds of things to prepare him or herself for the university.

Mrs. **Collins**. What do you say about the failure rates of these community colleges and junior colleges to do the job, according to the GAO report?

Mr. **Turner**. What we have reviewed is that the community college system across America is quite varied in its quality. There are some that don't require a major core that prepares students as well as the others do. And what our legislation that we have talked about with 25 percent, 50 percent, and 75 percent at the third, fourth, and fifth years of beginning eligibility, we believe signals to whether a kid is at a community college or a senior college, the kind of progress that has got to occur within those schools.

Also, most of the graduation data is from the pre-Prop 48 years, 1984-1985 entering. I think what you are going to see, post-Prop 48, is an improvement in graduation rates across those years as the students are getting better prepared. The kids coming in under 95, when these pass—or 86, when these pass this next January, their graduation rates are going to be higher than those under 11 core courses. I mean, it will just work that way.

And so I think that you will see an improvement in graduation rates over the years now, as we have these new standards in place.

Mrs. **Collins**. Dr. Walker.

Mr. **Walker**. I think one of the first things that we need to accept in this room is that the universities and the colleges are the NCAA. It reminds me of when people used to talk about the administration at the university, and I tell them there is no such thing. I am a chancellor. My name is Walker. You are talking about somebody.

The NCAA is the universities and colleges that belong to it, 828 of them. And so I think that the point that you make, if they are serious enough about this to say that in a vote and session they would make that decision, then I think they could make that decision. But because they are the ones that are exercising this money, but the NCAA is not over here and all the rest of us over on the other side. The universities and the colleges are the NCAA.

But the answer, to me, since this—President Elliott said over 100 years ago in the Carnegie Report, we didn't just get here quickly. We have got to allow some time for this thing to heal, as I said in our first meeting of the Knight Commission, that this patient needed serious surgery. And if we were going to give it two aspirins and say, come back and see me in the year 2000, then I was going home.

And I think that surgery needs to be applied, and we don't want to be in the position of, as I said in the written report, when the surgeon lost the patient through faulty surgical procedures, the hospital reported that the patient's condition resulted from diagnostic misadventure of high magnitude. The patient was dead just the same.

I think your point of a single institution, the matter of getting more States to have specific course requirements that are college preparatory courses before the individual is going to be turned out into the college or university, I think there is a whole constellation of things, Madam Chairwoman, that we are going to have to do to resolve this problem that has been biting at us for decades.

Mrs. COLLINS. Seventeen years ago when Congress first began looking at the situation, the NCAA said that they needed a little time and that all the problems weren't going to be corrected overnight and so forth. What I am hearing is that this is the same response that NCAA had, Mr. President, then that they are doing in a sense now. Things are going to get better off in the future sometime, in 1996 and 1997 and in the year 2000. And all of this.

My concern is that I want to raise the level of concern within the NCAA, within the college presidents that this is a real problem, that students are not graduating. They should be graduating. And something has to be done.

If it is, in fact, as drastic as developing a prep school of your own because the funds are there, if it is the college presidents who sanction what the coaches do to go out to get these students and the college presidents have the academic responsibility for those students, they are the ones who, in fact, ought to be making darn sure that those students have the ability to graduate.

I have just got one other question, and then I am going on to the other members. But my question is fashioned like this, and I am going to give it to you, Dr. Walker, for this reason.

The problem that we see in many inner city communities where there are low economic standards, low educational standards, of not a lot of will, if you will, to succeed in what is being done. And then you find a kid who happens to be in a high school who plays like Michael Jordan and, you know, who is a kid from a one-parent family, who lives in a very bad neighborhood. But he goes to school in spite of the dangers and this and that because of his love for basketball. And he is looked upon as a big guy upon the high school campus.

And so some college recruiter comes to him, and he says, here, you have this opportunity to go to XYZ—big college—and his dream then becomes I am going to be a Michael Jordan one of these days, and so forth and so on. His parents with whom he lives says, gee, this is a great opportunity for my kid because I don't have the money to send him to school and so forth.

Meantime, the student has not had a real good education in that high school because the academic standards there are very, very low. Can't pass the SAT. You know, he might have some other potential, but it is very, very slight. And, yet, everybody wants him to go to college. First of all, his mom wants him to go to college. He wants to go to college because of his future.

Do you think it is fair to take a kid like that who has had no real basic skills, put him in a university setting where there is no way in the world for him to graduate, really, and put him there and what do you think the feeling is for the community, his parents and so forth and the college presidents? Dr. Walker?

Mr. **Walker**. Well, first of all, I think we would have to admit that it is unfair. It is unfair, for example, that you raise his or her level of expectations to an unaccomplishable level.

We had a young athlete like this that most people in this room would remember, Houston McTear, that they knew as a freshman in high school that he was going to be sensational. He was running 500-yard dashes in tennis shoes, but nobody took time at that point, not his senior year, but at that point to do something about him in order to raise his level.

I am always amazed at what Marva Collins achieves out in Chicago with her program for these people that most people have given up on. But she has done something to inspire them to raise the level of expectations, to raise the motivation.

I think the basketball coaches that said, we are not going to permit that high school player to go all over the country playing these exhibition games and promotional games, and we are not going to permit him to keep visiting schools unless he or she can indicate that they are capable of succeeding in the educational environment. And until they do that, that individual that thinks that he is going to be of that less than 1 percent that is going to be Michael Jordan, because that is who you hear about, the Michael Jordans and the millions of dollars.

It is the same thing I quoted about NFL. It is infinitesimal of those who are going to succeed. I think the coaches make a mistake, AD's make a mistake of letting that great basketball player——

I wrote personally to tell Dick Schaap that that Sunday program that he did that showed those three kids playing on the courts down in Baltimore were going to end up like the players that went to Georgetown, it is unfair. You have given them a level of expectation that they are not going to meet. Therefore, you have to be realistic about it. You have to prepare them for their educational environment. And if you don't, they are going to be out, and the next thing you know they are selling dope and everything else to survive because they don't have the basic life skills to survive.

Sure, it is unfair, and unless something is going to be done about it, we are still going to have this program and the kind of thing harassing us throughout the decades.

Mrs. **Collins**. Thank you very much.

Just a final point. I don't think there is any way we can talk about Marva Collins and not talk about the Kevin Ross situation. I think all of you probably remember Kevin Ross.

Kevin Ross was a young man who went to a Holiday Inn from Chicago, and he threw all the furniture, just started throwing furniture off the 10th or 11th floor out on Hosta Street—Hosta and Madison in Chicago—and it was found, in fact, by Marva Collins that one of the reasons why he did this, he was totally frustrated. He couldn't find a job. He couldn't do anything else.

The reason he couldn't find a job is because he read at less than a third-grade level, had played basketball, had gone to the college, was a big man on campus and all this, and could not read. Marva, of course, took him under her wing and began to teach him to read and so forth, and he then was able to get a job.

I think this is an awful, awful documentation of what can happen to a student athlete who is used, as the coach we had here, Coach Brown last week or the week before last who said that those students are looked upon as "meat".

Mr. McMillan.

Mr. McMillan. I think one of the themes we are dealing with here is that we can't expect the NCAA to be the educator, and we are talking about a lot of things about education policy in a broad sense. And NCAA is not the facilitator of education. The institutions that make it up are. And I think it is important to try to draw that distinction.

It strikes me that the NCAA was created primarily to recognize the fact that, in athletics, schools might bend their standards and try to do things in order to be relatively more competitive, and, therefore, there had to be a common consent among them as to how they were going to keep the playing field fair. And isn't that essentially what the objective of the NCAA is all about?

Mr. Walker. I would think so, but in all of this discussion we have used the term NCAA and National Collegiate Athletic Association. There is another athletic association that has almost as many members as the NCAA called the National Association of Intercollegiate Athletics, the NAIA, and they have any number of minority students. I don't know that their graduation rate, Mr. President, is any better than NCAA, but I think when we start talking about this athletic problem we ought not to exempt anybody from it because all have a roll to play.

And one of the key things that we found with the Knight Commission of every group that came before us they constantly refer to the high school situation, what is happening at the high school situation. We have got to get them more sensitive to this issue so they will not let these individuals come out of there without—some of them tell them don't take the SAT until their senior year, as if they are going to average the score if they took it several times and did better.

So I think it is a constellation of problems, but there are also probably a constellation of answers to these problems, and there are some success stories that we can emulate, even to the point of the West Point. I spent some time at West Point when they were converting the tests for female cadets that were just coming in. And so I know about that prep school there. I recommended a couple students that went to it.

I don't know what the answer to that would be except if the NCAA, us, the colleges and universities decide that we wanted to have something of that nature, it is that group that would have to make the decision.

Mr. McMillan. Well, West Point, Annapolis, Air Force Academy are established to perform a very specifically defined national public purpose, and it is in their interests to attract a specific make-up of students with the capacity to become professional military leaders of the country. It is not the NCAA's objective, is it, to establish a certain level of athletic skill across the land and promote it or is it? That would justify that kind of an approach.

You know, one of the things that is troubling me here, and I would have to ask what your opinion would be about this, we have talked about doing special things for athletes. That all is a part of this, that the athletic skill is the driving force and therefore, academic standards, tutorial programs or what have you, and all this money generated by the system is going to be focused on the athlete to perpetuate that system.

While we are looking at athletic standards and the grade point average, do we also look at the degree to which the member institutions spend money on remedial efforts or is that an issue that should be discussed and out on the table?

Mr. **Turner**. NCAA has a guideline for continuing eligibility for the first year of 12 hours, up to 12 hours, of remedial courses can be added. Many institutions, though, within their higher education systems in their States have varying guidelines that they utilize. Some are prevented from having remedial type courses within their curriculum if they are a university.

It depends on how the State structures its higher education system, but the NCAA guidelines do allow 12 hours of remedial courses to count toward continuing eligibility within the first year, but, again, that is within the institutional guidelines of whether or not they are permitted by their higher education systems and by their own board of trustees any remedial courses to be offered.

Mr. **McMillan**. Well, Dr. Friday, would you like to address that?

Mr. **Friday**. I think what many States are doing now in raising the number of credit hours required and the level of performance will eliminate a lot of remedial expenditures that heretofore did exist. I know in our university system, for example, 30 or 40 sections of remedial English at some time but none exist now because it is said when you come out of the high school, bring 4 credit hours.

Mr. **McMillan**. Or go to a community college.

Mr. **Friday**. Or you go somewhere and get ready. This is putting the academic emphasis first. This applies uniformly to all people, and I think it should.

Mr. **McMillan**. I think it should, too, because you would have a hard time as a university president defending to one student why you were willing to expend all this remedial money on an athlete as opposed to a person that might be struggling who is a non-athlete, maybe a saxophone player or whatever. Maybe they have no particular extracurricular——

Mr. **Turner**. If you have remedial courses, they would have to be opened to athletes as well as non-athletes. Our board of trustees is about to begin a review. They haven't formally announced it, but I have heard various ones of them discussing it that they are going to look at whether or not the comprehensive universities in the State of Mississippi should, in fact, have any remedial education.

And that was a front page story in the newspaper about 2 weeks ago arguing whether or not we, Mississippi State and Southern Mississippi, should offer any remedial courses. But there is within NCAA guidelines right now the 12-hour limitation.

Mr. **McMillan**. Well, several of you have talked about the community college system or whatever intermediate systems may exist from State to State as a means of doing what the chairman was pointing out, and that is a student who may be an athlete who may be gifted but have certain deficiencies as a way to make them up would be through the community college system.

It occurs to me that through the modification of Proposition 48 that you are going to put into effect you have a 1-year layoff period on a transfer from the junior college, is that correct?

Mr. TURNER. No. That may be proposed by the membership, but the Presidents' Commission, rather than doing that, is recommending the 25–50–75 percent because there are some junior colleges that do an outstanding job of getting these students ready, and the idea was we don't want to punish a student who really has gone to a good community or junior college, taken the tough courses, is now ready. And so rather than saying all of them have to sit out, and we reviewed that, that was—at our March meeting that was a proposal that we had.

But at our June meeting we decided that the best way to do it was for both those at a 4-year institution and in a 2-year institution to talk about percentage of achievement toward a degree, and, therefore, that would put the feet to the fire of the junior college student as well as to the 4-year student. So although someone might bring it up, the Presidents' Commission is not sponsoring it sit out a year.

Mr. MCMILLAN. My concern would be that you don't want to pose a disincentive for that remedy.

Mr. TURNER. Right. And that was another issue. Your point is well made.

Mr. MCMILLAN. I am not an educator. I have had occasion to serve on some boards and stuff and be involved with it. It strikes me that often the capacity of an institution to advance its standards—I guess the same thing applied to a team—is to achieve excellence in one place, one faculty of a university, one school of a university, one athlete on a team, all of which have an uplifting quality on the whole.

And would you care to comment because I think there is a lot in what is going on here, that the standards that you have set, if properly communicated to secondary educational institutions around this country, could serve the purpose of an uplifting impact on academic standards generally, not just athletes. I mean, athletes are objects of hero worship and so forth. So it is a good means of achieving that objective. Would you comment on that in terms of the impact of your recommendations?

Mr. FRIDAY. I think that is already happening. I think the fact that these additional course requirements have been promulgated, the high schools given enough time to prepare for them, he said 5 years in Mississippi. It was 4 years in our State.

We can see the change already, and I think Proposition 48 results and other things manifest that there is this movement you see toward the more rigorous requirement simply because it is to the student's advantage that it be done first and foremost, and that is what this whole report is about, to try to do something when they leave the university or college to have something that they can fall back on for the next 45 years. There is a qualification of a skill, a profession or whatever. That isn't happening in too many cases today.

Mr. **Walker**. You are quite right. It is the domino effect. During a short span of time at North Carolina Central University when we tightened admission standards, not only did it raise the average of SAT over 75 for the whole student body but our retention rate was increased immeasurably. But it also meant a challenge to the faculty that you have to throw away those yellow pads you have been using for 20 years and get on with very creative, innovative ways of teaching those young people. So it is both a faculty responsibility as well as a student responsibility. But it is the definite domino effect in terms of across the board improvement.

Mrs. **Collins**. Mr. Tom McMillen.

Mr. **McMillen**. Thank you.

Chancellor Turner, let me focus on the Presidents Commission. I have followed your recommendations prior to the convention—the proposals listed in the Chronicle for Higher Education. Is it safe to assume the Presidents Commission deals with broad policy issues and not things like budgets of the NCAA and those kinds of things? Would that be an accurate characterization?

Mr. **Turner**. We generally try to deal with policy issues, but as you can see from some of the legislation that is here, it is fairly specific, and also some of the task force and committees we have created like to review the distribution of funds or various things like that. We do get some specific topics going.

Mr. **McMillen**. Are you familiar with the amount of Federal and State government lobbying that the NCAA actually does? Do you know the number, the budget number, of the NCAA's budget?

Mr. **Turner**. I do not know the budget number. No.

Mr. **McMillen**. So it is safe to say that the Presidents Commission doesn't really approve or sanction those expenditures?

Mr. **Turner**. The budget at NCAA is approved by the executive committee on which there usually is a president.

Mr. **McMillen**. Back to my question. The Presidents Commission itself does not itself sanction——

Mr. **Turner**. At the current time, the Presidents Commission does not review the budget line item. No.

Mr. **McMillen**. There are a lot of friends in this room who are representing the NCAA's issues here—my Congressman from New York and I have seen it. We have seen attempts to slow down these hearings, defeat students' right to know, you know, defeat my legislation, stop due process. I can maybe assume that the Presidents Commission per se has not necessarily sanctioned those kinds of activities, is that correct? In fact, sanctions activities that may be antithetical to some of the missions that you are trying to promote, would that be a fair statement?

Mr. **Turner**. The Presidents Commission, like most of the Presidents activities of other organization sanctions that are here in Washington, would approve activities that would be related to the point of view that the membership might have at any one time.

Mr. **McMillen**. But you are not approving line item budgets?

Mr. **Turner**. We are not approving line item budgets. No.

Mr. **McMillen**. I think the bottom line on this is the problem with the Presidents' Commission is that—the point I am trying to make is it is not in full control. The NAIA, for instance, in strict contract, has strict presidential control. They have a board of presidents that has the authority to make line item decisions that I am referring to.

Now, I have asked the GAO and the chairperson to look into these lobbying activities so we can get a more full idea and disclose to the public exactly what is going on, whether the left hand is truly talking to the right hand.

Moving on, with regards to presidential control, you made a statement that if the FTC voids the CFA contract that, in fact, a lot of these television contracts may go to the conferences. Will the NCAA have approval—will the Presidents' Commission, I should say, have approval over those conference contracts that may be negotiated if the CFA——

Mr. **Turner**. The Big 10 and PAC 10 have one right now that doesn't come under the purview of the NCAA. The NCAA, the individual conferences and institutions oversee the television activities for intercollegiate football.

Mr. **McMillen**. If the ACC decides tomorrow to go to a pay per view package, would the Presidents' Commission have the authority to stop that?

Mr. **Turner**. The Presidents Commission would not address the ACC's doing that unless it has generated an issue which it was concerned with, and then, if it did, then the Presidents' Commission could generate legislation to stop the ACC.

Mr. **McMillen**. So the act itself of the ACC going to pay per view would be outside, and, in fact, they could go forward with that and the Presidents' Commission would really at this point in time be unable to stop that?

Mr. **Turner**. It would not be the purview of the Presidents' Commission to try to stop that.

Mr. **McMillen**. Again, point of fact of why the Presidents Commission there is a disconnect between what they say and what is actually done in terms of enforcement mechanism.

Chancellor Turner, you pointed out in your statement or questions that in cases of transfers, where there are a lot of them, in fact some of those kids go on to graduate anyway. I should point out that the legislation we passed, those numbers will be incorporated in the statistics. Kids transfer to a school—the law that we passed looks at the kids that go in and looks at the kids that go out.

The statistics will improve for the schools that get those kids and graduate. The statistics will be diminished for the school that lost those transfers. Over time, that trend line could say something about a school. If a lot of kids are transferring out and not graduating those kids, it will be a very, very important factor.

Mr. **Turner**. It depends on whether they transfer out in good academic standing or under academic probation.

Mr. **McMillen**. But the fact that they are transferring itself is indicative. If they transfer to a school and graduate, it will improve the statistics of the school that takes and graduates them.

Mr. **Turner**. A lot of them transfer, of course, hoping to get more playing time. There are a lot of reasons why one would transfer from one school to another.

Mr. **McMillen**. But in defense of Congressman Towns' bill, statistics will eventually show those statistics over time, and it will not be viewed as an extenuating factor.

Could I ask one more quick question?

Mrs. **Collins**. I will tell you what the problem is. Digger Phelps has an appointment at the White House at 12, so we are kind of pushing a little about it. But we do have time for your 5 minutes, Mr. Towns. We were just notified of this just now. Otherwise we would have none.

Mr. **Towns**. I yield 1 minute to my colleague from the State of Maryland.

Mr. **McMillen**. It won't even take a minute.

Dr. Walker, yes or no—do you think that the revenue distribution incentives in the NCAA today where the lion's share of money goes to schools that win or mostly win is the right way to do this model?

Mr. **Walker**. That is a rhetorical question because you know my answer is no.

Mr. **McMillen**. Thank you.

Mrs. **Collins**. Mr. Towns.

Mr. **Towns**. Thank you very much.

Let me just say in response to Dr. Friday in terms of something you said, I think you should be extremely proud of your basketball program, and we all salute what you are doing in that chair. But, however, let me just caution you that your football program and your baseball program cannot say that. I just want to let you know that.

Mr. **Friday**. That is right.

Mr. **Towns**. I just want to pass that along for comment. We don't want the record to be too glowing here because there is some problems in that regard.

Mr. **Friday**. But it is the equal of the regular student body.

Mr. **Towns**. Well, of course, I would agree with that, but the point is you can't say the same about that program that you can say about your basketball program. That is the point I am making. In response to the question that you answered to the chairlady——

Mr. **Friday**. That is because of the tutorial effort in basketball.

Mr. **Towns**. I think tutorial programs are extremely important, and that was the heart of our legislation was to try to encourage tutorial programs, and we were criticized because we did not have sanctions in it.

For instance, some people felt that we should tie the graduation rates to the salaries of the coaches, and some felt that we should penalize the university after a period of time if they did not improve their graduation rates. And some people criticized the fact, if you don't have sanctions, you might as well leave it alone.

But what we were saying, that we did not want to have anything but exposure, and that was all we wanted is information to get out, and that we felt that if information gets out that it would correct itself. And so that was really what we were trying to do.

But let me ask you on that note, do you think if we had an award for a university that achieved the monumental task of graduating exceptional numbers of student athletes while generating revenue for the sports program as well, something of the equivalent to the Malcolm Baldridge Award, do you think if universities had an award like that, it would make a difference?

Mr. **Friday**. No, I don't really think—if you are thinking of it in the sense of a single incentive, I think that universities are going to do their very best to graduate as many young people as they can, award or no award.

That is what I think they do now, the best ones do, and I don't think it enters into that think in an academic situation the way it does in an industrial situation to which the Baldridge Award applies.

It is a different context entirely, and I think universities would do everything they have the resources to do. The principal thing is the availability of money to do these programs, to be perfectly blunt about it. If we had extra resources, we would do a better job with some of these young people, but we do not have the funding.

Mr. **Towns**. I want to accept everything you are saying. I don't want to question it. I don't want to challenge it, but there are some facts that stick out in my head and my mind that I just can't walk away from.

Now, I know a university, I don't want to get into name calling here, and you know as well as I do, once I start talking about the facts, then you will know who was involved in the NCAA championship runners up and organizations for a period of about 10 years did not graduate a single athlete, which meant that they had money because they were involved on television and everything else and for a period of about 10 years, and they didn't graduate anybody.

Now, I think when you look at that kind of history, when you look at that kind of information, one would have to question whether or not there is a real commitment on the part of the coaching staff in particular to see students graduate. I mean, one would have to question that, just looking at the facts alone.

Mr. **Friday**. I agree with you wholeheartedly, and that is why we have the legislation that we are going to put in. You are completely correct. I would find that kind of record indefensible.

Mr. **Towns**. I know you know what school I am talking about, so I won't get into it with you. Go ahead.

Mr. **Walker**. The new legislation to talk about progress, satisfactory progress toward the degree is going to eliminate that. You can't just keep them there and make, as Chairwoman Collins said, the mete to play basketball and represent the university without academic retention.

And I think it is going to eliminate that, and I know exactly what you are talking about, yes.

Mr. **Towns**. Back to your first, or your question right before that, the Southeast Conference does have an award for academic achievement, everything that Chancellor Friday said is correct. Also, the State of Mississippi has what it calls the Hallbrook Award.

It was sponsored in our State and endowed by a family that of the eight institutions that has the highest graduation rate, 5-year graduation, each year is given this trophy, and it is a traveling trophy.

And so within the State that I represent here, we have got the Hallbrook Award that it is identified for a purpose much like what you were saying.

Thank you very much, Madam Chairwoman.

Mrs. COLLINS. Well, we certainly thank all of you gentlemen for appearing before us this morning. Your testimony has been very beneficial to this subcommittee in trying to discharge its responsibilities.

Thank you very much.

Mrs. COLLINS. The next panel will be Mr. Richard Lapchick who is the Director of the Center for the Study of Sport in Society, we will have Mr. Richard "Digger" Phelps from South Bend, Indiana, and Mr. George Raveling, the head basketball coach from the University of Southern California.

Won't you come forward, please.

While you gentlemen are getting set, let me give you—to thank you Coach Phelps for the willingness to change your appointment so that you could stay the time of the hearing, and we greatly appreciate that.

We are going to begin with Mr. Lapchick.

STATEMENTS OF RICHARD E. LAPCHICK, DIRECTOR, CENTER FOR THE STUDY OF SPORT IN SOCIETY, NORTHEASTERN UNIVERSITY; RICHARD "DIGGER" PHELPS, FORMER HEAD BASKETBALL COACH, UNIVERSITY OF NOTRE DAME; AND GEORGE H. RAVELING, HEAD BASKETBALL COACH, UNIVERSITY OF SOUTHERN CALIFORNIA

Mr. LAPCHICK. Thank you, Madam Chair.

In 1968, Sports Illustrated did a five-part series that was entitled Black Athlete, A Shameful Story, and 23 years later, race and academic still seem to be central ethical issues in college sport today.

Our institutions are doing a better job on academics, but not on the issue of race. Too many black student athletes are today more frequently the victim of college sports than ever before. In that context, I want to address three areas of concern to me.

First, the subject of this hearing, and that is low graduation. That, to your own congressional initiative, we will be reporting those for the first time on a regular basis starting next year.

Recent surveys in the Chronicle of Higher Education, USA Today and the NCAA Zone Academic Performance Study showed that black athletes are graduating at a rate of half the rate of white athletes, and this continues that shameful story that Sports Illustrated began writing about in 1968.

On a policy level, though, I think graduation rates are even more complicated. Only 15 percent of our entering freshmen, all freshmen graduate in 4 years, yet somehow we expect college student athletes to graduate in 4 years.

If they don't, we either consider that the system has failed or that they weren't adequately intelligent to meet that system's needs. In fact, what we need is a guaranteed fifth year of scholarship assistance so those athletes will be able to continue that education. And with today's urban students, at least, and non-athletes alike taking an average of more than 6 years to graduate, a sixth year of that scholarship assistance would also be very appropriate in these days. In sports, we also hear about the concept of a level playing field, that no one is willing to go first.

I want to take a second to talk about the national consortium of academics in sports because this is a group of universities that have come together, and by joining, they agree that any athlete who came to their school on a scholarship in a revenue sport in the previous decade who did not finish can come back at the expense of the university to finish that education.

Since starting in 1984, 1,214 college athletes who didn't make the pros have returned in the consortium, another 702 current pros and more than 70 Olympians. In other words, 2,016 athletes who might not have ever gotten a second chance to finish their education have come back, very much breaking the stereotype that these athletes were only going to college as a weigh station to the pros.

They wanted that education, they have come back, and they are beginning to get it. The 73 institutions in the consortium have also broken the stereotype that schools don't really care whether the athletes get an education or not. They paid the tuition for that 1,214 returning college athletes without any kind of athletic return, whatsoever, the total bill being more than $12 million for that tuition.

Low graduation rates are also complicated by recruiting athletes who are inadequately prepared at the high school level. Our basketball and football players playing in NCAA Division I this year, 21 percent of them come in as special admits, that is people who did not meet the normal admission standards of the university versus only 3 percent of the student population as a whole.

In 1983, less than 100 out of 16,000 school districts had a C average requirement for participating in high school sports. I want to explain what that means if you don't have a C average as 44 States do not have today. In Massachusetts, one of those States, a high school basketball player can play for 4 years and be eligible and not only never get a C average, but never get a C in a single course. What have we prepared that student to do after he finishes—he or she finishes playing sports? Wherever the standard has been raised to a C average, athletes have almost universally met the challenge. We simply have been asking them to meet that academic challenge in the past.

How much should we rely on Proposition 48 standards, as Madam Chairperson indicated, to predict that success? Clearly the grade point average in core curriculum are good indicators of what the potential for that student would be.

But the NCAA's own recent academic performance study is definitely going to add to the argument about standardized achievement tests; whereas black student athletes graduate at only half the rate of white student athletes, black student athletes from the lowest 10 percent of those standardized achievement tests graduate at a rate of five times what white student athletes graduate at that level, indicating that clearly standardized achievement tests are not good predictors in this areas, and I think that is a critical piece of information.

I urge you, in the strongest terms of Congressman McMillen has in the past, to help our institutions of higher education take up the charge of becoming involved in the high school education in the communities where they work.

The third point I want to discuss is the special situation of the black athlete. The NCAA academic performance study has documented the educational profile of black student athletes for the first time.

As I already said, they graduate at half the rate of white athletes. Thus at a time that graduation rates for whites have gone up by nearly 80 percent when compared to the mid-1980's, it has only increased by 32 percent for black student athletes.

Black student athletes drop out at an alarming rate in their fourth and fifth years, 28.2 percent of all black student athletes drop out in their fourth and fifth years versus only 10 percent of whites, presumably after their eligibility has expired.

This seems to clearly indicate that black students are kept eligible by taking courses unlikely to lead to a degree. Forty-two and one-half percent of all entering black student athletes leave school in poor academic standing. That is the largest category of black student athletes who enter our colleges and universities today.

It takes virtually a heroic performance on the part of black student athletes to be about to graduate on our college campuses because they come largely in an alien world where they are among only 7 percent of the student body that is black, 1.5, 6 percent of the faculty are black and less than 2 percent of our college athletic departments, where we might expect more black representation are represented by blacks holding those positions.

The convocation of these hearings underlines for me the fact that the public knows it is up to our individual institutions to take responsibility. Institutions of higher education, I believe, are convinced that if they don't create a new sports system that Congress will become a large part of that future.

As proven by the effect of the student athlete right to know legislation, they will act to avoid Federal intervention. Thus these hearings become invaluable in moving the reform agenda ahead.

Thank you very much.

[The prepared statement of Mr. Lapchick follows:]

STATEMENT OF RICHARD E. LAPCHICK, DIRECTOR, CENTER FOR THE STUDY OF SPORT IN SOCIETY

Those of us working in the field work of college sport do so in an era of mistrust. Presidents cross wires with governing boards, athletic directors and presidents mistrust each other, coaches mistrust faculties while faculties mistrust coaches, and students resent athletes and treat them only as performers while student athletes are isolated from students and feel like only performers.

We live not only in an era of mistrust but also of misconceptions: the public thinks all athletic departments make money when few do.

Athletes think they'll make the pros to earn more money when only 3 percent do from college vs. 44 percent of black college players who believe they will make it and 1 in 7,325 do from high school vs. 43 percent of black high school players who believe they will.

The public thinks many athletes don't want an education but are using the university as a training station for the pros:

—according to USA TODAY's 1991 survey of graduation rates for basketball for players who entered in 1980-81 through 1984-85, 46 percent of all male players graduate; yet only 36 percent of black male players graduate vs. 60 percent of whites;

—these figures were much higher than NCAA figures for the class of 1984-85 in which men in revenue sports graduate at a rate of 42.1 percent; most significantly 25 percent of blacks graduated vs. 64 percent of whites in revenue sports.

The public thinks colleges don't care about educating athletes but are only interested in the TV and revenues:

—colleges accept 21 percent of all football and basketball players as special admits vs. 3 percent of all students;

—blacks make up 7 percent of all students vs. 56 percent basketball and 37 percent football players;

—current time demands are high—athletes miss 2 classes a week;

—how often have we heard about the $1 billion CBS contract or the $57 bowl payout in 1991?

Bridges need to be built and reality needs to be made clear. While we will never get total agreement on fundamental principles, we need to create those principles and stand firmly by them; at the same time we should lower the verbal swords and reach out to those perceived to be antagonists. Faculties and coaches are not antagonists—they can be co-educators. Students and student athletes are not enemies—they should become co-learners and the architects of a new society. Presidents and governing boards need to work together to set the tone for the enterprise.

When we fail to work together, the victims of all this are, of course, the student athletes, especially black student athletes. For me, race and academics are the central ethical issues in college sport today.

We are dealing with a systemic, national problem. No matter what the intention of the school, athletes dream of the pros and can abandon education. It even happens in the NAIA, Division II and III. But it certainly happens in Division I. We have to develop programs to assure that our student athletes continue their focus on their education while pursuing whatever else they may desire.

I would like to encourage you, as our Nation's leaders, to examine ways to break the cycle. In working on legislation requiring the publication of graduation rates, Congress forced all people involved in university athletics to come together to work things out. Until that time, that had been a rare occurrence.

I want to briefly address what to me are the three greatest areas of concern:

1. Low Graduation Rates

You know the rates. Soon, thanks to congressional initiative, we will all have to be reporting them. Graduation rates are, however, even more complicated. Only 15 percent of all freshmen graduate in 4 years. We need a guaranteed 5th year and an end to 1 year renewable scholarships. With today's urban students, athletes and nonathletes alike, taking more than 5 years to graduate, it is appropriate to allow student athletes a fifth year of assistance.

In sport we always hear about the concept of the level playing field—no one is willing to go first. I want to tell you a little bit about the National Consortium for Academics and Sport, where leadership has come from example. A requirement for membership is institutions who join bring back any athlete who came there on a scholarship in a revenue sport in the previous decade and who did not graduate to complete their education at the expense of the university. To date: 1,214 college athletes who did not make the pros have returned; 702 current pros have joined our pro degree completion program (DCP); and 70 Olympians have joined our DCP.

In other words, 2,016 athletes who may not have thought of getting a second chance have received it. But they needed additional time. More than 600 have graduated, mostly in the past 2 years. They have broken the stereotype of athletes going to college as a holding station for the pros. They wanted and are getting that education.

The 73 institutions in the Consortium have also broken the stereotype that schools don't care whether their student athletes get an education. They have paid the tuition for the 1,214 returning college athletes without any kind of athletic return. The approximately $12 million in tuition proves they were vitally interested in the education of their student athletes. Low grad rates are also complicated by recruiting athletes with:

2. Inadequate High School Preparation who we Admit to our Institutions

Prior to the passage of Proposition 48 in 1983, less than 100 of 16,000 high school districts had "C" average requirement for participation in extracurricular events. What does not having a "C" mean? In my State of Massachusetts, and in 43 other States, it means that a high school basketball player can be eligible for all 4 years and not only never got a "C" average, but never get a single "C" in any course. My question is what have we prepared that young person to do in life?

This is all at a time when demands on high school athletes are intensified by all-star games, camps, TV games of the week, and AAU summer leagues.

Coaches were the largest opposition group when there were discussions about such no pass no play legislation. They said ineligibility would lead to dropping out and turning to a life of crime, drugs, etc. Now there are six States and hundreds of local districts with such higher standards. Coaches are running 7 a.m. study halls and their players see them as being involved in the education process for the first time. Best of all, the student athletes themselves have met the challenge and raised their grades.

Without higher academic standards, the lack of a mental challenge feeds on and fuels lenient admission standards in self-fulfilling prophecies; of academic failure. When 21 percent of our basketball and football recruits are "special admits," they come to our campuses in an academic hole.

How much should we rely on Prop 48 standards? Clearly the grade point and core curriculum are good indicators, but the NCAA's own recent "Academic Performance Study" will add to the argument that standardized tests do not present such information. Blacks overall graduate at half the rate for whites. Yet blacks graduate from the lower levels of standardized scores at a rate four times higher than whites. This is a critical piece of information.

What I did not say earlier about the 2,016 athletes returning to school through the consortium is that they work in our schools outreach program counseling young people about academic matters, drug and alcohol abuse and teenage pregnancy and, now, race relations. I am proud to say that they have seen more than 535,000 high school and middle school students in the outreach programs.

Too many use the lowest common denominator instead of higher institutional standards, reducing chances for academic success. I urge you in the strongest terms to take up the charge of having our institutions of higher education work with the high schools in their communities to raise the levels of academic expectations.

3. Special Situation of the Black Athlete

The "NCAA Academic Performance Study" documented the educational profile of black student athletes for the first time.

—Blacks graduated at half the rate of whites (26.6 percent vs. 53.9 percent). Thus, at a time when the graduation rate for whites has gone up by 65 percent compared to other mid-1980's estimates, it has increased by only a third for blacks.

—Blacks drop out at alarming rates in their fourth and fifth years—28.2 percent of all black vs. 10.7 percent of whites leave in those years, presumably after their eligibility has expired. This seems to clearly indicate that black students are kept eligible by taking courses unlikely to lead to a degree.

—Furthermore, 14.4 percent of blacks leave in their fourth or fifth years "not in good standing" vs. 6.5 percent of whites.

—The largest number of black studeonlynt-athletes leave not in good standing (42.5 percent) next 30.9 percent leave in good standing and 26.6 percent graduate. For whites, the order is reversed.

	Whites (in percent)	Blacks (in percent)
Graduate	52.2	26.6
Leave in good standing	28.2	30.9
Leave not in good standing	19.6	42.5
Continuing	4.0	5.4

Black athletes are the objects of low academic expectations (only 31 percent of the black athletes in the 1989 NCAA study on the black athlete said their coaches encouraged good grades), are not receiving the education promised by colleges (graduation rates for black athletes are a shocking half of what they are for whites), and have few black coaches or faculty members to model themselves after on campus.

The facts in the NCAA study that black athletes feel racially isolated on college campuses, are over-represented in football and basketball, have high expectations of pro careers, and are uninvolved in other extracurricular activities, did not surprise most close to college sport.

However, the results of the NCAA study stand in stark contrast to a study on minorities in high school sport which established that in comparison to black non-athletes, black high school athletes feel better about themselves, are more involved in extracurricular activities and the broader community, aspire to be community leaders and have better grade point averages.

The primary question which must be asked is what happens to the black athlete between high school and college that seems to totally change how he perceives himself? Among the early responses is that he leaves a high school that is either overwhelmingly black or at least is partially integrated; if he is from an urban area he leaves behind a core of black teachers and coaches; if he lives on campus or goes to school away from home then he leaves behind whatever positive support network existed in the community he was raised in and he leaves behind possible black role models who weren't all athletes.

He arrives in college to discover that the proportion of black students on the predominantly white campuses is only 7 percent; that only 1.56 percent of the faculty positions at colleges and universities are held by blacks (7,356 faculty positions out of 460,673); and that the athletic department hires just slightly more blacks than the faculty and actually hires fewer backs than are employed in pro sport.

There are 1,165 head coaching jobs in the five Division I (excluding the historically black schools) sports that blacks compete in most: men's and women's basketball, football, track and field, and baseball. Only 47 of those jobs are held by black Americans; 40 are in basketball. Of the 5,000 assistant coaching jobs, less than 200 were held by blacks. There are only three black athletic directors in all of Division I.

The black student athlete needs a heroic performance off the field to graduate. It is time to bury the mistrust, to destroy the misconceptions, to lower the verbal swords, to work together on our campuses by making our boards, presidents, athletic directors, coaches and faculties partners and not antagonists, to make our campuses as racially diverse off the playing field as they are on it, and to reach out to our communities to help the future generations so we can prepare all students who enter our halls of learning to leave us with the education to prepare them for life after the cheering stops.

The convocation of these hearings underlines the fact that the public knows that it is up to our individual institutions to take responsibility. We can't count on the NCAA to reform everything on its own. Dick Schultz himself insists on the obvious—you cannot legislate morality. Institutions of higher education are convinced that if they don't create a new sports system, Congress will become a large part of the future. As proven by effect the Student Athlete Right to Know legislation, they will act to avoid Federal intervention. Thus, these hearings become invaluable in moving the reform agenda ahead.

Mrs. COLLINS. Mr. Phelps.

STATEMENT OF RICHARD "DIGGER" PHELPS

Mr. PHELPS. Thank you, Madam Chairwoman.

Graduation of student athletes has been a big issue in college sports in the last two decades. When a student athlete was admitted to college in the early 1970's with a 2.0 average out of a 4.0 in any combination of high school courses, an A in phys. ed., F in science, 2.0, most were not qualified or prepared to survive in a college curriculum.

With Proposition 48, 11 courses with a 2.0 grade point average and an ACT or SAT test score in place for college admissions in 1986, the loophole was for a non-qualifier still to be admitted to college but lose a year of eligibility, play 3 years instead of 4, and sit out his freshman year with no play or practice.

Unfortunately, little has changed since a high percentage of Division I men's basketball players still do not graduate, especially the starting senior stars. Three steps could be taken that would enhance the change for graduation rates to rise.

First, a grant-in-aid or scholarship could not be used unless or until that scholarship holder graduates in a 7-year period. If a scholarship holder graduates in 4 years, the scholarship may be used immediately for another student athlete. This would require schools to admit qualified student athletes as well as to provide the appropriate support systems within the university to aid the progress towards graduation, hopefully in 4 years.

The second step concerns the student athlete taking illegal compensation during the recruiting process or while in college. Room, board and tuition are not enough for many of these athletes to survive during college. Even if one qualifies for the full Pell Grant, total college costs are getting higher every year.

Therefore, I suggest a stipend of $2,000 credit based on financial need to be granted and administered by the financial aid office of each institution. The student athlete would receive no cash directly, but could draw on the fund for a plane ticket home, for a sports jacket to wear on team trips or for any of the incidental expenses that normal college students encounter, the Division I men's basketball tournament to co-finance the program for Division I basketball players. If a student athlete takes any type of compensation beyond this $2,000 stipend, he would lose the rest of his eligibility. Athletes are currently given illegal money to play, not to study and to graduate.

The final step is the disciplinary procedures that are needed outside the present structure but with the blessing of the NCAA and its membership certification or accreditation review of each institution's athletic department based on graduation rates in NCAA infraction investigation. An outside agency, not the Federal Government, either national or regional, as an example, Southern Association of Colleges and Schools, for example, would review each institution every 3 years. If the institution is not in compliance with the standards set, it would lose its accreditation.

The Supreme Court is the third body that keeps the Executive and Legislative Branches of Government in check. This body would act likewise. It would take the heat off the NCAA executive administration as well as the member institutions.

In conclusion, sometimes we forget that when we talk about NCAA regulations, we are talking about efforts to protect kids, 18 to 22 year olds, many of whom are from the least advantaged sectors of society. Many, through no fault of their own, are underprepared for college. Many are from families with little experience with higher education. The reforms I am recommending, which in fact strengthen rather than weaken the NCAA, are not meant to exclude these student athletes but to compel schools, high schools and colleges, to see that they are properly educated. If the NCAA does not protect them from exploitation, which includes bribing to attend our schools, from being used up for our profit and then discarded, who will?

Mrs. Collins. Mr. Raveling.

STATEMENT OF GEORGE H. RAVELING

Mr. Raveling. Thank you.

Mr. McMillen. Could I just interject for 10 seconds and just say I welcome Coach Raveling here. We go back a long ways. He was my freshman coach at the University of Maryland, so I still listen to him very intently.

Thank you.

Mr. Raveling. And you still need to do a better job rebounding.

Mr. McMillen. I learned how to pass, though.

Mrs. Collins. You may begin now, Coach.

Mr. Raveling. Madam Chairwoman, members of the subcommittee, my name is George Raveling, and I am the head basketball coach at the University of Southern California. I have been at USC for 5 years, and I have coached college basketball for nearly 30 years, and I certainly appreciate the opportunity to appear before you today to discuss academic performance of the student athletes.

I think that we will all agree that there is a problem, but the problem is not that too few student athletes graduate from college. It is that too few students graduate from college, not student athletes, but too few students graduate from college.

Statistics show that only 46.8 percent of all students at NCAA Division I institutions graduate within 5 years, while 50 percent of the student athletes graduate. Student athlete graduation rates are part of a larger problem which colleges and universities should be addressing.

In my view, the focus should be on the quality of education we provide students rather than on graduation rates alone. If we had paid more attention to the quality of education in America today, better graduation rates would logically follow.

In fact, the problem starts long before student athletes arrive on campus. Many of them do not come to college fully prepared. They do not have the study, the reading, critical thinking or organization skills that are essential to academic success. How can we blame the college for what the high schools and, indeed, elementary and middle schools have failed to do?

In addition, there is a critical need for greater parental involvement. Not every teacher is a parent, but every parent is a teacher. The NCAA President Commission's proposal to tighten the academic requirements for freshmen eligibility and athletic scholarships is a move in the right direction. It sends a message both to the prospective student athletes and to their high schools that the students who plan to go to college and into intercollegiate sports must be adequately prepared.

Moreover, graduation rates are only a limited indicator of success, for a prospective student athlete, whether a university has made a commitment to educating its student athletes, such as by providing tutors and academic advisors, is more important than the percentage of athletes who have graduated.

Other ways in which colleges can address the problem of student athletes graduation rates is to prepare freshmen athletes for what they are about to confront. We should use the summer months between the high school and college to evaluate and better prepare these marginal enrollees to compete academically.

Participation in such a preparatory program even could be a condition for the scholarship. In addition, universities should reward those coaches whose student athletes achieve academic success with long-term contracts even if the coach does not have a winning record.

Finally, we should consider eliminating freshman eligibility and give students a game-free year in which to focus on academics and then provide them with 5 years with which to fulfill all of their college commitments, curricular and extracurricular. I do not see a role for the Federal Government in this process.

These changes are ones that must come from within. They cannot be imposed from without. Moreover, the Federal Government has not done a particularly good job as the guardian of education. The fact that we pay the mailman more to deliver our children's magazines than we do the school teacher to teach that child how to read that magazine tells me a lot about where our priorities are in this country today.

At the bottom of the academic performance in graduation rates of student athletes is a societal problem, and the problem goes beyond poor preparation for college to the values we teach our young people today. We must make our students take responsibility for their own education. We must instill in them the discipline and the motivation to succeed, and by example, they must learn that education and personal integrity are more important and enduring than the money and material possessions.

The NCAA President's Commission proposes to strengthen academic requirements for the continuing eligibility which will reinforce the message to the student athlete that they share responsibility with the university to complete their education.

I am deeply concerned about an NCAA finding that over 28 percent of black student athletes at Division I institutions left during their fourth or fifth year. The President's Commission proposal will help prevent student athletes from falling too far behind either in terms of degree requirement or grades.

In summary, I encourage this subcommittee to work together with all concerned to improve the quality of education we provide American students. We need to reshape our collective perception so that universities and coaches are not judged by win and loss records alone, but on the achievement of their student athletes in the classroom, in the community, and in the field of competition.

Thanks for the opportunity to testify before you, and as my two fellow witnesses here, I would be happy to answer questions.

[The prepared statement of Mr. Raveling follows:]

STATEMENT OF GEORGE H. RAVELING, HEAD BASKETBALL COACH, UNIVERSITY OF SOUTHERN CALIFORNIA

Madam Chairwoman, members of the subcommittee. My name is George Raveling, and I am head basketball coach at the University of Southern California. I have been at USC for 5 years, and have coached college basketball for nearly 30 years. Thank you for the opportunity to appear before you today to discuss the academic performance of student athletes.

We all agree that there is a problem. But the problem is not that too few student athletes graduate from college; it is that too few students graduate from college. At NCAA Division I institutions, only 46.8 percent of all freshmen who entered in the fall of 1984 graduated within 5 years. In contrast, recruited student athletes at those institutions graduated at a rate of 50 percent, according to NCAA statistics. Coaches are doing a better job of graduating student athletes than our universities are doing, but clearly there is substantial room for improvement on both fronts.

We should more appropriately be concerned with the dismal graduation rates for all students, rather than focusing on those for student athletes alone. We must recognize that student-athlete graduation rates are part of a larger problem, which colleges and universities should be addressing. And we must acknowledge that we cannot quote graduation rates for student athletes without comparing them to the performance of students as a whole.

In my view, the focus should be on the quality of the education we are providing students, rather than on graduation rates alone. In a sense, graduation rates are a smoke screen that diverts attention from the real problem. If we pay attention to the quality of education, better graduation rates will follow.

In fact, the "problem" starts long before student athletes arrive on campus. Many student athletes, particularly those from public schools in disadvantaged areas, do not come to college fully prepared. They do not have the study, reading, critical thinking, and organizational skills that are essential to academic success. How can we blame the colleges for what the high schools, and indeed the elementary and middle schools, have failed to do? In addition, I believe there is a critical need for greater parental involvement. Not every teacher is a parent, but every parent is a teacher. In fairness, the burden for preparing students for college must be shifted back to the junior high and senior high schools.

The NCAA Presidents Commission proposal to limit freshman eligibility and athletic scholarships to those high school students who achieve a 2.5 grade point average in thirteen core subjects is a move in the right direction. It sends a message both to prospective student athletes and to their high schools that students who plan to go on to college and intercollegiate sports must be adequately prepared. The proposal does not take effect until 1996, which provides ample notice to young people of what is expected of them.

Moreover, graduation rates are only a limited indicator of success, and they are not meaningful for an individual student. From the perspective of a prospective student athlete, whether the college or university has made a commitment to educating its student athletes—such as by providing tutors, study tables, academic advisors, and learning centers—is more important than the percentage of student athletes who have graduated from that institution.

Other ways in which colleges can address the problem of student athlete graduation rates is to prepare freshman athletes for what they are about to confront. I believe that there should be better utilization of the time from high school graduation until enrollment as a freshman in college. We should use these summer months to evaluate and better prepare these marginal enrollees to compete academically. Participation in such a preparatory program even could be a condition for receiving a scholarship. We cannot let lack of adequate preparation and the demands of the college experience erode the enthusiasm of freshman student athletes.

In addition, university presidents and administrators should reward those coaches whose student athletes achieve academic success with long-term contracts, even if the coaches do not have winning records. Many of my colleagues believe that greater academic integrity is necessary. But they should not be penalized for emphasizing academics in tandem with athletics. And finally, we should consider eliminating freshman eligibility; give students a game-free year in which to focus on academics, and then provide them 5 years within which to fulfill all of their college commitments, curricular and extracurricular.

Where, you may ask, is the role of the Federal Government in all this? Very simply, it has no role. These changes are ones that must come from within; they cannot be imposed from without. Moreover, with all due respect, the Federal Government has not done a particularly good job as the guardian of education. The fact that we pay the mailman more to deliver our children's magazines than we do the schoolteacher to teach our children to read speaks directly to the source of our educational problems in America.

At bottom, the academic performance and graduation rates of student athletes are a societal problem, more than an intercollegiate athletics problem. And the problem goes beyond poor preparation for college to the values we are teaching our young people. We must make our students, including our student athletes, take responsibility for their own education. We must instill in them the discipline and motivation to achieve success, and teach them the politics of life. By example, they must learn that education and personal integrity are more important and more enduring than money and material possessions.

The NCAA Presidents Commission proposals to strengthen the satisfactory progress requirements will reinforce the message to student athletes that they share responsibility with the university to complete their education. I am deeply concerned by the NCAA findings that over 28 percent of black student athletes who entered Division I institutions in 1984 and 1985 left during their fourth or fifth years in school. The Presidents Commission has proposed timetables within which student athletes must complete designated percentages of degree credit requirements, from 25 percent by the start of the third academic year to 75 percent by the start of the fifth. In addition, the Presidents Commission proposes to mandate that student athletes maintain cumulative grade point averages equivalent to specified percentages of the average required for graduation as they progress. Together, these proposals will go a long way toward preventing student athletes from falling too far behind, either in terms of degree requirements or level of achievement.

In summary, I encourage this subcommittee to work together with all concerned to improve the quality of the education we provide American students. We need to reshape our collective perception so that universities and coaches are not judged on win/loss records alone, but on the achievement of their student athletes—in the classroom and in their sport.

Thank you for the opportunity to testify before you. I would be glad to answer any questions you may have.

Mrs. COLLINS. Thank you very much.

It seems like basketball seasons are getting longer and longer and that travel is farther and farther and that practices are extended more and more, and so, Digger Phelps, Mr. Phelps, can you give us a description of a college basketball player, how many hours a day he practices, how many days of classes he is likely to miss during travel, but also tell us whether it is realistic to assume that he can still find enough time to get an education.

Mr. PHELPS. Well, I think it depends on the coach as well as the institution, with what criteria they set for their student athletes based upon the recruiting process, the type of curriculum that student athletes may enroll, and what the follow-up procedures may be.

Under NCAA rules, we are not allowed to start practice until October, then of course upon the completion of your season, you can go up until that point. Certain schools vary practices. Some coaches have a morning practice, some coaches have a night practice, some coaches will practice three times a day. That has happened, but that is not the case when you take a look at the entire process.

I think most coaches are concerned about the time of student athletes. I think with what the recruiting committee, George Raveling's committee, has done as well as the NABC, National Association of Basketball Coaches and the recommendation to the 20 hour week will control the student athlete's time.

I think it has been abused, but I think now with the President's Commission, as well as the blessing of the NABC, as well as the NCAA, that legislation will come into effect a year from now, where they will be on a 20 hour week, which includes games.

Mrs. COLLINS. Coach Raveling, do you think the season is too long for practice and for playing games and so forth?

Mr. RAVELING. After being in intercollegiate athletics for 30 years as a basketball coach, I have grown to conclude that the game is overcoached. There is no question about that. We probably could afford to spend a lot less time in practice, in preparation, and I think the Air Report, which was a report commissioned by the NCAA, it clearly reveals that from the student athlete's perspective, there is too much time spent in preparation for competition, and as a result of that, legislation was passed to scale back the practical commitment to 20 hours a week. I don't find a particular problem with that myself because I never came close to 20 hours a week anyway.

Mrs. COLLINS. OK. Coach Phelps, you piqued my interest when you suggested a stipend of $2,000 credit. I think that many of us understand that for the athletes who have to be rather poor that the little—the college tuition and the books and other things they have to have for lab courses and what not that are paid by the university is just fine. But, then, if they don't have any kind of stipend at all and their parents can't give them any money, and there are student athletes who are like that, then they have a real hard time trying to be moral and trying to live with the NCAA rules, and so I think there is a lot of merit to your $2,000 a year stipend for these athletes. It is my understanding that those athletes can't currently receive any kind of stipend from their colleges; is that right?

Mr. **Phelps**. That is correct, unless they qualify for the Pell grant, but they still don't even get the full Pell grant.

Mrs. **Collins**. Is that the fact? That is very, very interesting. Wouldn't you say that these very stringent rules that are currently in place would lead to cheating and so forth by the students?

Mr. **Phelps**. A lot of things were expressed this morning. I think a lot of things are related. When you talk about testing, and testing comes up to economics in the neighborhood. Neighborhood includes the schools. The problem today is not what we are doing in college sports to me. It is public education when we take a look at testing, if a youngster is prepared in grammar school, junior high school, then he or she should have Algebra 1, Algebra 2, geometry as a third math, should have English Comp 1, 2 and 3, being positioned so that in their junior year they can review for the SAT.

Under economic situations a lot of students will go out and have their parents pay for a certain review for a month before they take an SAT exam. Why aren't we doing that in our public schools in the beginning of their junior year, so that in May of their junior year they can test?

Now, when a college recruiter comes in to a low economic situation and sees the environment, when you talk about what is right and what is wrong, I feel that since we see the money on one side, that part of it economically, as far as profits for colleges, then on the other side of it, we have to update, not just the support system which that revenue can—you don't need a prep school under the NCAA.

What we need is our high schools in track, our junior high schools in track and a support system once that student athlete enrolls in that institution that can finance the extra tutorials, the time spent outside of practice or playing, not just in the classroom, but outside studying and getting ready for that core curriculum in the college level, and that needs to be financed, but at the same time, based on need, you can avoid—the NCAA investigations we have seen, they all come up to me, plane tickets, cash, spending money.

If a stipend was there, because the money is there, and based on need, and it is controlled by the financial aid office, then you are putting the economic situation in a frame so that the low economic situation for testing, for schooling, for higher education is in line with the rest of society. Until we do that with the money that is there, we are not going in a positive direction.

Mrs. **Collins**. Mr. Tom McMillen.

Mr. **McMillen**. For the record, Madam Chair, I would just like to reference something back in the previous panel when I was asking questions about lobbying. The NCAA lobbies against a lot of measures that in my view are antithetical for higher education, including Representative Towns bill, the student right to no bill.

Chancellor Turner pointed out that the President's Commission does not have responsibility for drawing up budgets. I would like the record to show, it is my understanding that the executive committee has no Presidential representation, and if I am wrong, I hope that the NCAA will correct this, but in effect the most important area of the NCAA, budgets, the most area of any organization is budgets.

The Presidents are not in control, not even represented in the drawing up of what is clearly the priorities of any organization, so I offer that for the record. Let me ask a couple of questions. All of you have feelings about the Knight Commission's recommendations that a 1-year renewable scholarship should be done away with a 5-year scholarship.

I proposed that in my legislation. I know, Digger, you had a different feeling on that, but are most of you in support of that kind of concept?

Mr. Raveling. Tom, I would give you a list of the people on the executive committee, and they do have a President on there.

Mr. McMillen. They do have a President. OK, I appreciate you correcting the record on that.

Mr. Phelps. Tom, you have got to get better counsel.

Mr. McMillen. I was off by one. We will put it that way.

Mr. Phelps. Remember, Tom, we lost to the Soviets by one back in 1972.

Mr. Raveling. All NCAA committees have to have a President on that.

Mr. McMillen. That is ancient history, Digger, but 12 members of the executive committee, there is one member of the President, but the point remains the same. I think what I alluded to earlier, let's talk about 5-year scholarships. Is that a good idea?

Mr. Phelps. I personally feel, as I have stated in my presentation, that if we take a look at the exploitation on the college scene, the question hasn't been asked. Is there exploitation on the high school scene? You touched on it earlier this morning. I think it has seeped in. We are seeing it as college recruiters. We know what goes on in high schools today.

It is interesting because even in the State of Indiana, to play high school sports, you need all D's, as in David, to graduate from high school. I believe, in some States in the Midwest, all you need is D's, and we wonder why we are not competing in the world market economically. We have got a lot of 7-ft. players that are in uniforms, but we forget to ask fundamental questions because they are standing next to a basket with a basketball. Can they dribble, pass, shoot?

The answer is you have got to realign the structure to say, well, you can use that scholarship once that scholarship graduates. That would put everything in line. It would afford the high schools to put the kids in a better position academically.

It would force the admissions office to make a decision, as well as the support system in that university or college to make sure that student athlete is on track.

Mr. McMillen. That is a very creative idea. Dr. Lapchick—is it Mr.?

Mr. **Phelps**. We call him Richard. We get nervous when you start calling educators doctors.

Mr. **McMillen**. You referenced a bill that I introduced to try to reward school districts that adopt the 2.0 standard with more Chapter 1 moneys, kind of carrot approach to this. That ultimately is very, very important. Would you like to comment on that?

Mr. **Lapchick**. I would agree with what Digger said and that is that it is at the high school that the greatest problem has developed, and that is what produces the lack of preparation for the college student athlete when they get on our campuses.

However, I would strongly agree that we are in a situation where student athletes are not graduating in 4 years, as a universal phenomenon, as normal students are not graduating in 4 years, so to expect that student athlete, as I said in my testimony, to graduate in less time than the normal student population is, I think, patently unfair to the student athlete. So I would definitely suggest the fifth year.

Mr. **McMillen**. George, you talked about freshman eligibility. When I was a freshman we had a freshman team. I could not play on the varsity. Do you think that is a good idea?

Mr. **Raveling**. I have long been an advocate of freshmen being ineligible. To me it appears to be the most simplistic approach.

As we were preparing, sitting here at the table preparing to speak, I kind of raised back to that year when you were a freshman at the University of Maryland, and I wrote down the five incoming scholarship players that year.

It was interesting that of the five, one ended up being a lawyer, one ended up being a Congressman, one ended up being a dentist, and all five got their degree, and if my memory serves me correctly, there were no study tables at Maryland in those days. There was no tutoring.

It is like I tell my son, that when I went to Villanova, it had to be the most naive academic institution in the world, because they felt if I came there, I came to get a degree, and finish in 4 years, so they didn't provide me with any tutoring. They didn't provide me with any study table.

There was nobody seeing if I went to class. They just thought, hey, if you come here, you must want to get an education, so let's get about it, and I agree with the comments that were made earlier. I think you have to work at not getting a degree today if you are a student athlete, and I have said this a number of times on the campus, that one day the normal student is going to rise up, and he is going to say, hey, why aren't these same resources being provided for me? I am paying $26,000 to go to USC. Why aren't these same resources being provided for me?

I think that the reason you won't have freshmen eligibility is because you would have to do away with Proposition 48, and there is too great a commitment being made to Proposition 48, and people don't want to lose face.

Mr. **McMillen**. Thank you.

Mrs. **Collins**. Mr. Towns.

Mr. **Towns**. Thank you very much, Madam Chairlady.

Coach Phelps, I was very interested in the fact that you indicated that a scholarship should last for 7 years and that the person would not be able to use that scholarship until a period of 7 years. I must admit that I sort of like that approach, but when I think about the graduation rate—and I just want to say to Coach Raveling that your statistics are right—you know, but when you put it in a different perspective, you find the results are so different.

When you look at the revenue sports and you talk about the graduation rates, then you have to look at it differently, because the point is that there is a major difference between football and basketball in terms of the graduation rate there, in terms of athletes. And when you add tennis and wrestling and badminton and all the other things into it, then finally, yes, the numbers go up. But the revenue sports is a very serious problem. I think that that is really what we are talking about more than anything else.

Of course, we say the student athlete, but we are really talking about the revenue sports in terms of basketball and football and a few conferences, baseball. So I just sort of want to make that clear.

Mr. RAVELING. Can I make a comment?

Mr. TOWNS. Sure.

Mr. RAVELING. What I would suggest perhaps might be the focal word in what you just said is revenue, because they are the revenue-producing sports at the intercollegiate level, but they also—the greatest revenue rewards at the professional level come at those two sports, too, and I think that that has impacted the graduation rates, i.e., basketball players going hardship, football players not dropping out of school at the end of their fourth year of competition, so that they can now go around to the combines and prepare themselves for professional football.

I think you might be surprised how many football players don't attend the second semester of their last year of eligibility, because they are flying all over the country, trying out for these different NFL combines. And when you look at the amounts of money that are being paid today to young people to participate in professional sports, I think there is an unusual incentive for them not to complete their education.

I will give you a story. I had a coach say to me a couple days ago—he said, you know, when I was assistant coach at Michigan State, I used to sit around and monitor Magic Johnson when he was in study table; and he said, one night I told him—I said, Ervin, you know, you have got to really take this stuff seriously, because you need to get your degree. And he said, is that right, Coach? He said, well, why do you feel that way, Coach? He said, Ervin, if you don't get your degree, you are never going to be anything in life; you are never going to be able to amount to anything.

Well, you know, I think we look at Ervin today, and he did amount to something. And I think that young people today always share the conviction that the degree, to them, right or wrong—I don't agree with this, but I think young people today see—some of them see their mission as professional athletics. And that is why I brought out the point about values. I think that a lot of these things start in the home, with the values we teach our children.

Mr. TOWNS. I agree, Coach, that everybody has a sort of responsibility. And I think that it was Coach Phelps who indicated that the high schools and the elementary schools and, of course, all the way through, I think they have a responsibility. Of course, the colleges and universities have a responsibility. And also pro teams have a responsibility.

I think that we need to take a look at where we are. This is a very serious problem, and I think that everybody has to participate, you know, for it to work.

I noticed that—I keep hearing the theme through there that governments should not intervene. Well, I am sure that if everybody was doing what they were supposed to do, government would not want to intervene. But the point is that as long as we see tax dollars being used and the results of what we are getting, you know, I think that we would be remiss not to do something.

And I think that, you know—and I can share your concerns, but the point of the matter is that the only reason NCAA has moved a little bit is because of our activities on this end. And we would love for you to clean up your own act.

Mr. PHELPS. Mr. Towns, in answer to the question on the 7 years, one, if most college students get out between a 5- and 6-year period, if they do graduate, the reason why it takes that long is because of economic reasons.

A student athlete—even with room, board, and tuition, and some type of support system once they enroll—are geared up better, as it was brought out, than most students, to have the opportunity, including summer school, which you are allowed to have room, board, and tuition paid for under an NCAA grant-in-aid to graduate within a 4-year or even a 5-year structure.

To carry on from the other thing, when you talk about government intervention, I get a little nervous when I see certain cities in this country who, through economic means, have to cut out funding for public education. We are seeing extracurricular activities being cut out of public schools, especially in Chicago, we are seeing schools close down this year, we are seeing faculty being laid off. And, you know, if there is a hurricane or that storm that hit here about 3 a.m. this morning, I guarantee you, if there was damage—and you can clarify me on this if I am wrong—but if there is a tornado or a flood, you would get Federal relief like this.

And we don't give Federal relief to education. If a school looks at its budget and 50 percent comes from the State and 42 percent comes from, say, the local community and only 8 percent of the school budget comes from the Federal Government, in my eyes, it is time for the Federal Government to up the ante for funding education.

So that in a lot of these situations, especially in low economic situations, the major cities in this country, we need to have education relief like you have tornado relief, like flood relief. And that is part of the problem today. What you are seeing in college sports is just a reflection of education, and until you accept that, the Federal Government needs that responsibility before they even think about getting involved with the NCAA.

Mr. TOWNS. I have no problem with that at all, and I agree with you wholeheartedly. I think the Federal Government has to do more, as well.

But I think the other thing is that what we are spending, we want to make sure it is being used properly and effectively. I think that is also an issue here. And any time you have a university where, you know, that we feel that the graduation rates are so low and people don't know about it, that information is what we are asking for here, more than anything else, then we are only asking that the university make certain that the student is aware.

And in the letter of intent—as you know, and I don't have to tell you—it binds the student to the university, but not the university to the student. So, therefore, we are only saying that, in that letter, all information that student needs should be there.

For instance, if your program is one that 95 percent of the basketball players graduate, and he is going to play basketball, let him know that. If it is only 5 percent of the basketball players that get a degree, let him know that. I think if you are not going to do that, then the government has to step in and say that everybody has a right to know.

If airplanes can do it on a quarterly basis, the departure and arrival times, then a university should at least on an annual basis give the graduation rate.

Mr. **Raveling**. Sir, could I ask you a question?

Mrs. **Collins**. Mr. Lapchick wanted to respond to that before you asked him your question.

Mr. **Lapchick**. I wanted to make a comment on what Coach Raveling said about Magic Johnson's story, because I think in Magic Johnson's case, that was a realistic expectation that he had. He had a very good shot at the pros, but the fact is that according to a 1990 Lou Harris poll of high school students, 44 percent of black high school student athletes believe that they will play professional sports, when one in 10,000 will. So the problem isn't really with Magic Johnson, but all those other young people who might stake their futures on that fact.

Mr. **Towns**. Good point.

Mrs. **Collins**. The ball is in the other court, Coach Raveling. You can answer the question.

Mr. **Raveling**. I guess, as a point of clarification for myself, if a school graduates 100 percent—basketball at Villanova graduates 100 percent of their players—and Brand X only graduates 50 percent, and those two institutions are recruiting my son, what is my son to discern from that statistical information? Is he to discern that if he goes to Villanova, he is going to definitely graduate, because they graduate 100 percent; and if he goes to Brand X, that he has a 50 percent less chance of graduating?

Mr. **Towns**. I think the information that he needs to have is the record of the university, because as you know, when a student is being recruited, nobody talks about graduation rates; they just talk about coming in, and I'll make you a pro. You know that as well as I do, Coach. And there are exceptions to the rule, but I am talking in most cases.

But I think in the letter of intent that it states in there 5 percent of the people that come here and play basketball get a degree, and another letter comes and says, 95 percent of the basketball players here graduate, then it is up to you and your son and high school coach and any advisors to take a look at that information and make an intelligent decision.

I think that I would be honest with you that, if I saw an institution that said that 5 percent of the basketball players get a degree, I would have some reservations about my son and my daughter going to that particular institution. But here again, it is only information; it is not telling you what you should do. But it is just making certain that you are aware of what is going on.

Mr. **McMillen**. Will the gentleman yield?

Mr. **Towns**. Yes, sure, I would be delighted to yield to my colleague.

Mr. **McMillen**. On a year-to-year basis, there will be a anomalies in those statistics. Over time, the trend line will be very indicative. If Brand X has a 30 percent record over 10 years and Brand Y has 100 percent, that will be a very telling message.

On a year-to-year basis, George is absolutely right; those statistics can be misleading. But over time—that is the reason why you accumulate them—you are comparing apples to apples, in and out. I think they will send a—I think it will be a very, very interesting statistic to look at.

Every school will have their right to offer extenuating circumstances.

Mr. **Towns**. That is what it does.

Do you have any other suggestions about it?

Mr. **Raveling**. No. I was just curious as to how my son would use that information, because I had a suspicion that despite all that statistical information, he is still going to have to go to school and perform to his highest——

Mr. **Towns**. No question about it. Absolutely, absolutely.

Mr. **Raveling**. Regardless of whether he went to the school with the 50 percent graduation rate.

Mr. **Towns**. I just think if airlines give their arrival and departure schedules, at least you have the information; and that is all we are saying.

Mr. **Phelps**. Does that include sitting on runways waiting to take off?

Mrs. **Collins**. The time of the gentleman has expired.

I just have a final question or so that I want to ask, and on page 2, Coach Raveling, of your written statement, you raise the question, how can we blame the colleges for what the high schools, and, indeed, the elementary and middle schools, have failed to do?

Well, I don't think it is a matter of blaming the colleges themselves, but I think the coaches have a responsibility. If they know that a student, by looking at his high school record, is performing at an F level, you know, that coach knows that student is not likely to be able to complete his academic degree. We know that already. It is not a matter of assessing blame. It is a matter of the coaches being more aware and having real concern for the student athlete.

Now, we all understand and we all know that in this country the sports that bring in the revenue are the ones that everybody looks at. I don't know this, but I assume that the college presidents give the coaches an OK to bring in the students that they want to have; and they are the better qualified students who believe that they are going to become pros and all that. But I think, nonetheless, the responsibility lies with that college, lies with that coach, to make sure the kids they are bringing in at least have a fair opportunity to graduate from college.

Mr. **Raveling**. The recent NCAA, what I would call a recruiting summit meeting in Kansas City in September, the basketball coaches advocated a rule change that would preclude student athletes from even taking a visit to a college campus until they had passed the SAT exam and had a C average in a minimum of seven core courses. So I really believe—and I have said this to Dick Schultz on a couple of occasions—that if they let the college coaches make the rules, they would be stunned how tough the rules would be.

I think the college coaches are for tougher rules than people think that they are. For some reason, we have become an easy target, the college coaches. But if you look at the recommendations that college coaches have made the last couple of years in terms of legislation, it is much harsher than the Presidents Commission or the faculty reps are making. I think Mr. McMillen would agree with me on that.

Mrs. **Collins**. Thank you.

Digger?

Mr. **Phelps**. Personally, I feel we have got to get the money out of the game. I think the revenue that has been there the last few years has put a lot of pressure on administrators to go for the money. On the other side, you see college presidents talking about, we want the athlete to be a student athlete.

The coaches are in the middle. They are in a Catch 22 in a lot of situations. We have built an interesting scenario today in college sports, especially in Division I men's basketball. I will give you an example.

Let's assume right now the weekend networks have everything tied up on Saturday and Sunday. You have got all your games of the week with ABC, NBC, CBS, ESPN, Sports Channel, Channel 9, whatever. Now it is Monday night. On Monday night you have got Big East games going on, Georgetown at Syracuse at 7 o'clock; at 9 o'clock, Indiana is at Michigan. What happens is, a school like Toledo, University of Toledo, a school like Tulsa, Division I basketball schools—Missouri Valley goes to the NCAA tournament, the Mid-American Conference goes to the NCAA tournament—what happens at the end of the season?

Those families that live in Toledo or Tulsa, there may be a home game that week—Central Michigan at Toledo, Wichita State is playing at Tulsa. Now, all of a sudden, here is a family going through a recession, tough times right now, family of four. If we go out to the game this week—we are basketball junkies, but it is going to cost us maybe $50 for tickets, for food, concessions, parking, programs, et cetera—or do we stay home?

I go in the basement on Monday night, watch my games. The family goes upstairs and watches whatever they want to watch on networks. Now, at the end of the season, the Athletic Director at Tulsa, the Athletic Director at Toledo fire their basketball coaches because of lack of gate receipts.

So when we take a look at where are we going and why, the coaches are always in the middle of this Catch 22. So when you look at the type athletes they need to win, when they look at what is produced over here for revenue, or we look at distribution of

NCAA Division I basketball receipts, that is a serious, serious problem.

Until we go back and play for the ring, a championship ring, and give the money to everybody, force support systems or even scholarships in inner-city schools to allow these kids an opportunity to go to college and not worry about room, board, and tuition, a non-athlete student, and put the money into education that is needed, then I still think you are going to see the same problem of how do we put a Band-Aid on something that needs surgery?

But the NCAA and the college presidents have to take charge, just like they are in charge of their chemistry department, their business school; and you put that athletic department with the academic department.

And as Professor Jan Kemp at the University of Georgia was fired because she wouldn't change grades of football players in the early 1970's. She took it to court, the State of Georgia and the University of Georgia. The case was settled out of court, because the University of Georgia feared losing their accreditation academically as an institution, based on the Jan Kemp case. That is the case in a nutshell.

Thank you.

Mrs. Collins. Mr. Lapchick?

Mr. Lapchick. I think one of the problems I have seen in the years I have been involved in college sports is that we are too willing to talk about blaming coaches or athletic directors when the blame really goes across the whole system of sport from the time parents start overemphasizing it with their kids.

It is really time to stop affixing blame and to try to get the resources together that I think we are all talking about to address the issues and to look at each other, not as antagonists, but people who are all interested in the same goal; and that is to get the student athlete to graduate and to get more students to graduate from our colleges and universities also.

Mrs. Collins. Let me just say this, that, you know, everybody says that they don't think there is a need for Federal involvement and all of that. But, you see, the fact is—as Congressman Towns pointed out—the Federal Government has been involved. And with that, I can't help but think of the Grove City decision that said that athletic departments could discriminate if they didn't receive any Federal funds, even if the rest of the university did. And we in Congress had to overturn that.

And so the Federal Government very definitely does have a role in these cases, and I think, since we often have to intervene, that those people who are concerned here, who think that the Federal Government has no role, should be reminded of the fact that that is what we are all here about, to see to it that things are done fairly and clearly and that nobody is taken advantage of, et cetera.

And I think that this subcommittee has been very balanced in its approach to the very many problems that we see with NCAA. And we are going to continue to have some more hearings in regards to NCAA, but I am really glad to have the opportunity to have the witnesses all appear who have appeared so far, and those that we have scheduled for the fall, to come in and talk to us, because we do have this involvement.

Mr. McMillen.

Mr. McMillen. Thanks. I didn't know whether you were going to close. I just had a couple more questions.

Mrs. Collins. I wouldn't dare.

Mr. McMillen. I wanted to agree with Coach Raveling on the coaches and the AD's. They can certainly be instrumental in this reform movement, and they are. It has got to be a kind of participatory process.

I listened to your comments, Digger and Richard, about revenue distribution should be changed. You said more radically changed. I think you have made a similar point of pooling some of this money.

My concern is that, since the Supreme Court decision, really the networks call the shots. They tell you—cable guys and networks tell you what they are going to play. I don't know whether that is good for higher education. Do you want to comment on this revenue distribution and how it seems like TV has the upper hand these days?

Mr. Phelps. I have to go one step further. I think people have decided what they want to watch. If they didn't want to watch college football, Division I, or Men's Division I basketball, you wouldn't see TV involved. So the American people have decided what they want to do as far as watching a sport on television.

I am not so concerned about the money that is produced there as if to say, why aren't we taking that money, and I am sure CBS will tell this to the Division I schools, why aren't you putting it into a support system, so these kids can graduate in higher graduation levels? Why aren't we funding situations to create an environment to bring in that type of student athlete, which we are starting to do now? This is the first year, I believe, we have finally got legislation to allow students to come in before their freshman year and get ready for college campus; and we are funding that under the NCAA.

Mr. McMillen. Would you be in favor of incentives for Title IX compliance and academic performance? Would you like to see some of those as criteria?

Mr. Phelps. Well, I think when you go into the whole concept of intercollegiate athletics, sooner or later you have got to draw a line someplace.

I don't know if we can fund and be competitive, not to win games, but just to be able to compete, to support teams, the uniformed teams, the travel teams, if we have got to go in every different direction. I think what comes out of the problems with Title IX that you are seeing is, how do we equal the budget.

Therefore, when you equal budgets—let's say we have four men's sports, four women's sports—then maybe the numbers should be smaller, of equality in that direction, rather than trying to go 20 women's sports and 20 men's sports. We can't fund that. So then maybe we have to cut back and make the other sports club sports. But if there is equality there, I have no problem with that.

I think what the problem is, Tom, when all of a sudden you see revenue-producing sports trying to support 26 other sports, and everybody wants to be equal to the revenue-producing sports. Well, the American people who watch or show up for gate receipts, which happen to be men and women, have made that decision. So I think that is where the Catch 22 is in that direction.

Mr. **McMillen**. Richard, you have done a lot of work on that. What are your thoughts?

Mr. **Lapchick**. I was very disappointed in the way the revenues were distributed after the NCAA came up with that formula. I thought there was an enormous amount of differential directions that they could have gone.

You may recall I proposed it in front of a committee that you did a couple of years ago, an academic superfund where we would actually tax people who go to games, a 1 percent tax on ticket sales that would net $3.3 billion a year, a simple 1 percent tax that would cost the consumer about 10 cents a ticket on average to come in. And that could fund all the things that we have been talking about here.

I think that—and that is what I mean by sharing and getting people together. We benefit as fans, television networks benefit, the sports industry benefits. Everybody benefits except the student athlete in some cases. And we have got to put in programs and resources to make sure that they are coming out of our educational systems with resources that they are going to need to live a full life.

Mr. **McMillen**. As I am sure you are aware, the IRS is beginning to look on taxing scholarships, taxing kids, taxing student athletes. Do you think that is a good idea for the IRS to tax student athletes?

Mr. **Phelps**. No, I don't think—personally, I don't think—then you are going to tax even the person in the band, the person that got a chemistry scholarship. They are not in a position to be taxed. Let's be honest and fair about that.

I think when you are putting someone—if anything, I want to see more tax relief for capital funding for education, for Federal tax on corporate profits. We have got to fund education. If you take a look at education, it is very simple—no matter if it is at the higher level, secondary, primary, even Head Start—it comes down to discipline in curriculum, the first problem; it comes down to faculty, second problem. The third problem is funding and the fourth problem is the community commitment or the neighborhood commitment, even if it is a college or campus.

We put those four things in line, we are fine. We have got to allow more tax relief in this country for capital gains, for education, for income tax for education, for any type of funding where corporations can get involved, the private sector, to fund education.

We are behind. College sports is just a reflection of it. Until we put all those things in order, I don't think the Federal Government, as well as State and local governments, are going to understand the real necessities in education.

Mr. **McMillen**. Any other comments on that, my last point?

All right. Thank you.

Mrs. **Collins**. Mr. Towns.

Mr. **Towns**. Just one quick question, Madam Chairlady.

You know, Richard, you didn't mention it, but others mentioned that you really feel sort of strongly that the Federal Government should not be involved in this process. And I have sort of heard it from you and also heard it earlier this morning from the other panel members.

Then if the Federal Government is not involved, you know, how do you think we can change? What do we need to do to change it, because you know as well as I do, there are some things that are going on that just should not go on when we talk about in terms of the situation that surfaced up in Syracuse where two roommates, one now signed a pro contract and went back to visit his roommate and said, I know that you are not doing well because you and I suffered here for 3 years together, and now I am making big money. Take $500, buy yourself a Coke or a soda and get yourself a pack of Nabs, or whatever, a candy bar.

All of a sudden, a big issue was made. So I am saying, when you see this kind of thinking going on—and then, of course, that is a violation of the rule, this, 92, 95, and this kind of thing—when you see all this, it reverses the fact of all the other problems we have that you pointed out so eloquently this morning.

How do we turn this around? How do we move in a different direction if the Government is not going to give you a hand?

Mr. RAVELING. I think that, first of all, these hearings have created meaningful dialogue. I think that they have changed the focus of America as it related to intercollegiate athletics. I think it has brought about a greater awareness within the body of the NCAA. I believe that, as an organization, we have come a long way.

I think that we have new leadership in Dick Schultz. I think he has a great sensitivity to what the problems are. I think that he has spent more time than any administrator I have known in my 30 years of intercollegiate athletics out in the marketplace, trying to identify what the problems are and what the possible solutions are.

I think that we have far more special interest groups in the NCAA than we have ever had before—as an example, the Knight Commission, the Presidents' Commission. If you were to study the legislative trail that it takes to get legislation passed in the NCAA today, you would realize how many special interest groups there are. And I do think we are going about it in an intelligent and meaningful way, of trying to eradicate some of these problems.

I guess what we are saying to you is that we appreciate the attention that you are bringing to the problems, and we appreciate the fact that you are pointing them out to us. But what I think we are really saying to you is to give us some time to try to work them out. I guess what we are saying to you is that if you look over the last 5 or 6 years or however long Dick Schultz has been in office, that there are overt signs of change and that there will continue to be overt signs of change. And what we are saying is that we think that we can work our own problems out without having a community neighborhood organization come in and try to tell my family how to put my house in order.

Now, if we demonstrate the inability to do that, then I think that we have to suffer the consequences. But I, for one—and I think there are many, many people in the NCAA who would share my conviction that with Dick Schultz's leadership, these problems are going to solve themselves, and they are going to solve themselves in a very rapid manner.

Mr. **Phelps**. Personally, I agree with everything that Coach Raveling has said. I think we are aware of the problem. I think there is action being taken to resolve some of these problems. Personally, I would like to see stiffer penalties for those in violation of problems.

I think when SMU was hit with the death penalty back in the early 1980's and destroyed their football program, maybe even destroyed—and I say maybe even destroyed the Southwestern Conference in football, I think that is needed.

I think where there is discipline and tough discipline, I think people fall in line. You tell a kid, you take pay, you can't play. He is going to lose his eligibility. Well, he is going to—but give him something so he can at least have means to survive economically in college. Now while he is there.

See, I believe in the John Edgar Widemans from the University of Pennsylvania who was a black Rhodes scholar, who captained the Penn basketball team in 1963. I believe in a Bill Bradley who went to Princeton and got the degree and turned down a scholarship to go to Duke because he wanted to be in a position to qualify to be a Rhodes scholar.

Well, you can do both, and I think we can sell both. I think the NCAA is geared to do both. All we need to do is to put these action plans in quickly. I think the presidents at the last NCAA convention made a big impact. I think this January you are going to see even a better impact.

Now the college presidents are involved. They can be the supreme court. Let them control the machine. I think you can be guidelines in the background. I think if the NCAA says we think there is illegal money in that home, then allow the IRS to go in and tap that resource to see where they are hiding the money if that is the case. That is where they don't have the super power in these cases, when you talk about due process.

But when it comes to education, I think it is a national problem. It is at an all-time low. When have you thought that you would see schools shut down and teachers laid off? We are hearing about extracurriculars being cut out, but now we are shutting students down, putting one teacher, 80 students and cutting out funding for school facilities. That is not going to work.

And we take a look with a vision for the year 2000, 2010. It is up to Congress to get our educational structures in neighborhoods back home where those people who voted for you, so you are into your education nut core, and you will find that half the problems you are voting on for here in Congress, maybe more than half, are all education related.

We are just in higher education. The issue is where is the discipline for exploitation in high schools? What is going on in junior high schools or grammar schools or why aren't we really funding Head Start the way we should to give these kids a chance and let's head start America.

You put those kids in line from 4 to 14 and in high school make them all take five courses, of which four have to be core courses. Now you have got better citizens to do an electrical engineer or to do as an electrician.

But let's educate America. And I think you will see that higher education will fall in line, of which intercollegiate athletics is just a part of that.

Mr. TOWNS. Let me just add, because I know my time has expired, let me just add that I share your concerns and respect for Dick Schultz. I think that he is a very capable, very competent person, and I think he has done a lot of good things.

The reason we have not done more here is because of Dick Schultz, and I want you to know that. But we are concerned by the fact that it is not moving fast enough.

Thank you, Madam Chairperson.

Mrs. COLLINS. Thank you very much. I tell you, this has been a wonderful panel, as has been the one before it. And I think that you have given us a great deal to think about, that your testimony will be reviewed by all of us, and we want you to know that we certainly appreciate your giving of your time, all of you, and for you postponing your time over at the White House, Digger.

And with that this hearing is adjourned.

[Whereupon, at 12:40 p.m., the hearing was adjourned, to reconvene at the call of the Chair.]

INTERCOLLEGIATE SPORTS
Historically Black Colleges and Universities

THURSDAY, SEPTEMBER 12, 1991

House of Representatives, Committee on Energy and Commerce, Subcommittee on Commerce, Consumer Protection, and Competitiveness,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:16 p.m., in room 2154, Rayburn House Office Building, Hon. Cardiss Collins (chairwoman) presiding.

Mrs. Collins. Good afternoon. This hearing of the Energy and Commerce Subcommittee on Commerce, Consumer Protection, and Competitiveness continues today into college athletics, focusing on the role of Historically Black Colleges and Universities. Our past hearings have highlighted a number of troubling aspects of college sports, particularly the failure of many student athletes to receive a real education.

Our hearings also have reviewed particular troubles facing African-American student athletes, whose graduation is one-half that of white athletes. Historically Black Colleges and Universities continue to provide blacks with the majority of undergrad degrees.

At our first hearing I noted that college sports have become big business. A review of the papers this past week gives us ample reminders of this fact: Notre Dame opened its football season armed with a $38 million contract from NBC; the College Football Association, composed of the Nation's largest and most powerful football teams, opened its season with a $175 million contract from ABC; USA Today reported that checks this year from the NCAA from its $1 billion basketball deal with CBS will provide Big Ten colleges with $705,000 each and Big Eight schools with $541,000 each.

At the same time, Historically Black Colleges and Universities have not been sharing at all in this new wealth. As Commissioner Free's testimony points out, after the NCAA was barred from negotiating on behalf of all colleges or football, the College Football Association swallowed up nearly all of the money.

Historically Black Colleges and Universities have all but disappeared from television, with occasional appearances on BET, ESPN, and local cable companies. Virtually no attention is paid by the networks. When our witness, Coach Gaines, won his 800th game, no network was there to highlight it. In fact, none of the major networks accepted our invitation to appear here and explain their actions.

While some would contend that the ever-increasing monopolization of television revenues by large powerful schools merely reflects marketplace decisions, this is not entirely true. Many football classics between Historically Black Colleges and Universities have drawn crowds of 60,000 and 70,000. Corporations have strong economic interests for commercial sponsorship of these events.

Not only could the networks be doing more; so could the NCAA. The NCAA includes within its contract with CBS, mandates that the network televise women's basketball, gymnastics and swimming. It should include a provision for black college sports as well. Some NCAA rules, like the play-in rule for its basketball tournament and restrictions on games, actually increase difficulties for Historically Black Colleges and Universities to receive exposure.

As our witness Charles Farrell points out, providing enhancement to programs at black colleges will have an impact well beyond those institutions. With Historically Black Colleges and Universities better able to compete for athletes through increased exposure, predominantly white institutions will be forced to improve their academic treatment of student athletes.

Let me repeat what I pointed out at our last hearing. Our examination of college sports is intended to improve the quality of education for athletes and non-athletes at our Nation's colleges and universities. All of our respected witnesses have much to say on this particular issue.

College sports is a big business with big money and the potential to do great good. But colleges are educational institutions, not just big businesses. When business goals and market considerations affect their jobs as educators, college leaders, and possibly Congress, must step in to redirect that effort. For example, recent allegations that a star football player at Ohio State was being pushed away from his educational pursuits in biology into weaker courses for the sake of football practices ought to give all of us great concern.

College sports can certainly enhance the role played by our Historically Black Colleges and Universities, but they are being kept from sharing in the increased resources being made available. We have to find solutions, not excuses, for the problem.

Mr. McMillan.

Mr. McMillan. Thank you, Madam Chairwoman.

We meet today to consider problems faced by athletes, athletic departments, college and university presidents at Historically Black Colleges and Universities. This is the subcommittee's third hearing on college athletics and the NCAA, but the first to focus on exclusively black institutions.

I commend you, Madam Chairwoman, for your leadership in bringing these issues to the attention of this subcommittee and the American people. I would especially like to welcome today's witnesses, and extend a welcome to Coach Clarence Gaines, better known in the world of basketball as "Big House." Coach Gaines is a fellow North Carolinian who spent 46 years at Winston-Salem State University. With one exception, Coach Gaines has won more basketball games than any coach in college athletics and has brought great distinction to our State of North Carolina, and we are very proud of his accomplishments and the accomplishments of Winston-Salem State.

As we have learned in our previous hearings, collegiate athletics is big business. Today, we will examine the distribution of the revenues generated and the extent to which Historically Black Colleges and Universities share in those revenues or fail to share in those revenues. We will discuss the difficulties facing athletes at these institutions in terms of curriculum, graduation, post-graduate education, and career opportunities.

There are approximately 99 Historically Black Colleges and Universities in the United States. These institutions enroll approximately 16 percent of all black college students. And we have a notable such institution in my own district, Johnson C. Smith University, which has been rendering outstanding service to our community and the Nation since 1867. The importance of the contribution made by these colleges and universities cannot be overstated.

I look forward to working with today's witnesses, and with you, Madam Chairwoman, to ensure that the integrity of the academic and athletic programs at these institutions will be preserved and strengthened today and in the future.

Thank you.

Mrs. Collins. Thank you. Mr. Tom McMillen.

Mr. McMillen. Thank you, Madam Chair, and let me thank you for holding these hearings and commend you once again for your leadership on these issues related to higher education. And I think these hearings have gone a long way to improving the educational experience of individual student athletes as well as showing us the ways to bolster the integrity of our colleges and universities.

Today, I am pleased that we can focus on college sports at Historically Black Colleges and Universities, and, as has been noted, a very large percentage of African-Americans enrolled in higher education attend these institutions. The situation of African-American athletes has been of interest to me for some time, not only during my days as an athlete, but as a Member of Congress as well.

One of the most disturbing areas about the subject is the rate by which African-Americans graduate. Even the most recent surveys shows that the athletes graduate at half the rate of white athletes. I think this has led to the impression, right or wrong, that many African-American athletes are exploited for their skill. There are stories of students spending their entire college years without the right type of assistance they need to find a job after college and build a career.

I am certainly looking forward to today's panelists to see what they view was the primary problems among African-American student athletes and their suggestions for dealing with them. I am also interested in your views on the overall revenue distribution in college sports today and which is derived nationally from college sports.

As you know, Madam Chair, I have introduced legislation in the Congress which would institute reform in intercollegiate athletics and would distribute the pool of money on a much more egalitarian basis. As you know, since the NCAA lost its antitrust exemption the networks are calling the shots, and believe me, they are calling a lot more big-time jump shots than they are educational shots and broad-based kind of shots that they should be doing.

The real issue here, and I think you alluded to it in your statement, is are we dealing with commercial enterprises on our college campuses, is that the direction we want to head to as a country, or are we talking about educational enterprises? Under my proposal it is very possible that Historically Black Colleges and Universities that are members of the NCAA would receive a greater share of the profits from intercollegiate athletics.

My legislation is also aimed at helping economically disadvantaged students by offering a tax-free stipend to student athletes. Currently, the NCAA's rules prevent student athletes from receiving any outside compensation. In many respects, these kids go to college and they are almost forced into pleas of poverty to play college sports. My bill would allow up to $300 per month to be paid athletes on a need-only basis.

As you may know, a recent survey by the College Football Association, the CFA, revealed that 37 percent of the athletes themselves polled felt they needed a stipend in addition to the need-based Pell Grant, that they couldn't live on their scholarship.

Madam Chair, as you know, I have been very active in these reform issues and have been critical of the NCAA's reluctance to develop a new model for college sports. My concern not only is that the continuing scandals in college sports degrade the integrity of higher education, but also that we are losing sight of the needs of student athletes. These young men and women are not cheap labor designed to fill arenas and entertain cheering crowds for 4 years, and fill the pockets of adults. They are at college to prepare for the years ahead.

I am hopeful today's hearing will illuminate some of the ways to address this concern and help us balance academics and athletics in the institutions of higher learning.

Again, I thank you.

Mrs. Collins. I thank the gentleman, who certainly has been at the forefront of this issue and has been doing a tremendous job on it not only in this subcommittee but through other avenues of getting exposure to the problem that exists there.

Mr. Bruce.

Mr. Bruce. Thank you, Madam Chairwoman. I thank you for having this hearing. I represent a large Big Ten school in the University of Illinois, and I appreciate your ongoing interest in student athletes.

There are large sums of money that is involved in the whole question of college athletics. The pressure to perform is tremendous, and there is a great deal more pressure probably to perform on the field than there is to perform in the classroom, and I hope that we can understand better why that is. I also would like to investigate, as you would, the coverage of Historically Black Colleges, why the television networks have not covered them as significantly as other universities. I would like to hear the reasons for that, and I look forward to the hearings to help us answer some of those questions.

Thank you very much, Madam Chairwoman.

Mrs. COLLINS. Our first panel will be Dr. Fred Humphries, who is the president of Florida State A&M University in Tallahassee; Mr. Clarence Gaines, Sr., will be next. He is the coach at Winston-Salem State; and Mr. Kenneth A. Free, who is the commissioner of the Mid-Eastern Athletic Conference in Greensboro, North Carolina.

Why don't we begin with you, Mr. Free?

STATEMENTS OF KENNETH A. FREE, COMMISSIONER, MID-EASTERN ATHLETIC CONFERENCE; CLARENCE E. GAINES, COACH, NORTH CAROLINA A&T UNIVERSITY; AND FREDERICK S. HUMPHRIES, PRESIDENT, FLORIDA STATE A&M UNIVERSITY

Mr. FREE. Thank you, Madam Chairwoman, for having us here. I will just have a brief statement to make based—with the paper that I sent in, I don't want to read that. But we are happy to report that we are representing nine historically black schools with fine athletic programs.

Being a commissioner, of course, with this conglomerate, we find ourselves faced with the same economic problems trying to market these schools to create the type of dollars that it takes to build the athletics programs so that you can be in the mainstream. We find it very difficult. But then we also find that being a member of the NCAA we make certain types of rules, and being a member it makes it very difficult to adhere to some of the things that causes some of the other programs to grow.

One of the things that I am hoping that it is being focused on that I think that the committee should be aware of, the historically black schools have done a tremendous job in attempting to educate. The reform that is going on in college athletics today, it applies. But at least we should be recognizing that the fact that our primary mission is to educate, and we have put that before athletics.

I have always felt that we should be a model, if publicity would lend itself to us, for the whole country on how we attempt—not only do we educate students and student athletes, we are required to take the underachiever and try to mold him into a good citizen, athletics being just a part of that whole process. I think that some of the things, besides the money that is being generated in college athletics, that historically black schools have focused on is developing the whole student; and, if we would just be credited with doing this, and maybe not so much as providing us with a bigger piece of the economic pie because of our minority status, but reward us for doing a good job in educating and providing good citizens in this country.

So, basically, my approach to the testimony today would be to answer, or direct questions or whatever. But to summarize it, we just believe that there should be a bigger piece of the action, more value, more availability to expose our programs by way of television or whatever means.

One other thing I might mention—economically, shoulder pads, if you will, or whatever, cost the same thing for our football players as they do at some of the larger institutions. And, of course, we have been forced to subsidize some of our programs, to travel all over the country to market our programs in what we now call classics. There are some 37 football classics all over the country, playing out of our geographic regions just to generate some types of funds, because of some promoters that want to promote black college sports.

And, if we could just depend on our neighbors, maybe, or some of the larger institutions to consider in our communities to play or to participate in some type of game close by that would help us generate funds, we would be welcome to that.

Mrs. COLLINS. Thank you very much.

[The prepared statement of Mr. Free follows:]

STATEMENT OF KENNETH A. FREE, COMMISSIONER, MID-EASTERN ATHLETIC CONFERENCE

Thank you for inviting me to appear before your committee. I feel honored to be here. For the last 14 years, I have served as the Commissioner of the Mid-Eastern Athletic Conference (MEAC), which was founded in 1970, and now has nine member institutions which are the following: (1) Bethune-Cookman College, Daytona Beach, FL; (2) Coppin State College, Baltimore, MD; (3) Delaware State College, Dover, DE; (4) Florida A&M University, Tallahassee, FL; (5) Howard University, Washington, DC; (6) Maryland Eastern Shore University, Princess Anne, MD; (7) Morgan State University, Baltimore, MD; (8) North Carolina A&T State University, Greensboro, NC; and (9) South Carolina State College, Orangeburg, SC.

We are classified as Division I in basketball and Division I-AA in football under the NCAA. Seven member institutions field football teams, and all nine member institutions participate in basketball with a combined student enrollment for all nine member institutions for the 1991 school year of 45,000 students. Since joining the MEAC, I have had the opportunity to serve on the following national athletic organizations as an officer: the NCAA Executive Committee; the University Commissioners Association; the NCAA Committee on Basketball Issues; the National Association of College Directors of Athletics Executive Committee; the Collegiate Commissioners Association; the professional Sports Liaison Committee; and the NCAA Men's Division I Basketball Committee.

Despite all the national contact over the past 14 years, I have found it very difficult to market the MEAC and its members because of the dominance and power of larger conferences and institutions. Their influence with television, advertisers, and major sponsors have steadily hampered our promotional endeavors.

Before I go into a lot of facts and figures, I have served for 5 years on the NCAA Men's Division I Basketball Committee and I have seen an increase of revenue-making ventures by the larger institutions which has drastically reduced the state of black college sports economics. I could not share any other better example than the September 5, 1991 article in the Washington Post newspaper entitled "Notre Dame's Golden Season" subtitled, "Fighting Irish Football Return Pumped Up by Breakaway TV Contract."

The article went on to say, "In an era when most schools are slashing budgets and eliminating teams, Notre Dame has a 5-year, $38 million-plus television contract with NBC." That deal, announced on February 5, 1990 touched off a searing storm of criticism, particularly from Notre Dame's fellow members in the 63-School college Football Association (CFA), which had negotiated its own network and cable contracts ($210 million from ABC and $140 million with ESPN).

Ironically, one of the most vocal critics was Georgia athletic director, Vince Dooley, whose own school and Oklahoma had helped pave the way for Notre Dame's defection B filing suit in a 1984 case that stripped the NCAA of its power to negotiate the college football television package said Dooley. Said Dooley, "I wasn't surprised by this, I was shocked—greed and ultimate greed. That's the reaction I'm getting from people." The president of Notre Dame, Rev. Edward A. Malloy said, "The primary reason I approved the NBC contract was that it would allow us to substantially increase the resources for financial aid, and the majority of it would be targeted to students from the socio-economic backgrounds, many of them minorities."

Please let me provide you with a little history, and you can make your own decision. Is the decision to help minorities, or is the motivating factor money? The same as other CFA members simply put greed and ultimate greed."

In 1982, there were nine Division I-AA football conferences representing 78 institutions and there were 11 independent institutions for a combined total of 89 institutions competing under the NCAA umbrella. Two of the Division I-AA conferences, represented historically black institutions. The Mid-Eastern Athletic Conference "MEAC" and Southwestern Athletic Conference "SWAC", with a combined total of 15 institutions playing football as Division I-AA member institutions. One exception, Tennessee State University, is the only historically black institution in a predominately white athletic athletic conference which has 80 members.

In 1982, Division I-AA institutions received $5 million for regular season appearances and $750,000 additionally for semi-final and championship play-offs and play-off games. Through the 1982 NCAA formula, the nine I-AA conferences each were worth $620,000 per appearance. This was the same amount paid to Division IA schools for regional telecasts.

Television shares for Division II schools amounted to $520,000 in play-off money. Forty-five thousand dollars was paid Division II schools for four regular season appearances. For championship competition, Division III members received $150,000 and $22,500 for four regular season under the old NCAA formula in 1982.

In the 1983 football season, teams in Division IA received $54.6 million in television revenues. In 1982 the pay-off for 83 schools—including the College Football Association "CFA" which has 60 IA members (all predominately white institutions), PAC 10 and Big 10 amounted to $53.3 million of $54.6 allocated to Division IA members. In 1983, revenue for Division I-AA was $6.4 million for regional television. It is more important to note that under the old NCAA program, only Division IA schools made national television appearances. The only exception was Grambling and Morgan State in 1970, which is the only national network telecast that has ever involved two historically black colleges.

In conclusion, our smaller colleges and universities sorely miss the network's lucrative revenue plan that was enjoyed in the early 80's. Although we appreciate occasional television appearances on BET, ESPN, and other local independent cable outlets the revenue gained from those telecasts does not come close to what a national NCAA sharing plan would produce.

If the major universities would schedule us in football (particularly those in our communities and State), our attendances would increase and our gates could produce more revenue to support the athletic programs. Plus, such a contest could possibly dictate a network television opportunity.

In that same vein, the majors do schedule us in basketball, but only if we play at their home arena or a neutral site. And though our institutions receive reasonable monetary guarantees to travel, they do not get the chance to host those larger, well-known schools which would not only produce must of the same gate receipts, but would give our members a "showcase" game on campus.

Finally, please be reminded that alumni, fans and supporters of NCAA Division I-AA football, purchase the same products manufactured by the sponsors and advertisers who spend the huge dollars to be a part of the larger collegiate athletic programs.

Mrs. Collins. Let me say that I neglected to mention at the outset of the hearing that we will operate under the rules of the House of Representatives, and by that I mean that each witness is given 5 minutes to give his or her testimony, or to summarize it, and then, of course, we have the question-and-answer session which is also in 5 minutes.

Now, you have not used your 5 minutes. Did you hear what I said about the 5-minute rule? Good. Most of you who are here know about the 5-minute rule. I just wanted to make sure that that was understood by our witnesses who may not have had the opportunity to testify before.

You haven't used up your 5 minutes yet.

Mr. Free. But I am through.

Mrs. Collins. But you are available for questions, which is fine. We are going to go now to you, Coach Gaines. You may give your testimony at this point in time.

STATEMENT OF CLARENCE E. GAINES

Mr. Gaines. Thank you, Madam Chairperson. I am honored to be here. I actually presented two documents to you, and as I look through the more humorous and lengthy one, it exceeded 5 minutes. So I am going to junk that and give you a summary.

Mrs. **Collins**. Well, let me say this. If you like, you can submit your entire testimony. Your written testimony will be a part of the record, and your oral testimony will also be a part of the record. You are covered both ways.

Mr. **Gaines**. OK. Thank you.

First of all, what are my qualifications to add anything to this dialogue? The adage "Where one stands on an issue depends on where one has been walking and sitting" is quite apropos to my experiences for the position I take on the matters before us.

I am 68 years old, and when I count my own collegiate days as an athlete I have spent exactly 50 years in the vineyard. Four of those years were at Morgan State, 46 at Winston-Salem State. Truth be told, if I include my boyhood days in Kentucky's colored school in Paducah, it becomes more a reality to say that I have spent all of my life in and around such institutions. Thus, my positions are born of total immersion, and I must have it known immediately that I am settled personally and professionally, with both feet on the ground. For me, this is neither speculation or guesswork. What I have to say is rooted in real experiences, real joys and pains, and real visions and faith in the progress of athletics as a reflection of larger societal problems and prospects. I also have the dubious distinction of having won more college ballgames than any coach in history but one individual, Adolph Rupp.

The whole matter brings to mind a humorous ditty: A salesman sitting in the parlor waiting for the lady of the house to discuss a sales prospect was attracted to peanuts in a nearby dish. Falling to temptation, he reluctantly took one. Not able to eat just one, before he knew it he had consumed the whole bowl. Sheepishly and with much embarrassment, he admitted his greed when the lady entered the room. She said, "Ah, don't fret. I've already licked all of the chocolate off of these already."

Like that lady, over the past half century I have licked and savored the sweet taste of amateur athletics long before it became big business—a sale. And the subject before us, for me, is a bittersweet debate for I cannot realistically blame the major programs who are now not only enjoying more than the lion's share of the benefits, leaving me and my peers in black colleges little more than shells and crumbs. Mind you, I do not disparage the courageous young men and women who are "in the bowl," but the fact of the matter remains that in black colleges we are now figuratively and literally playing on a different field.

Exactly what is the problem? Stripped of its theoretical and sugar-coated gloss, the problem is but an extension of all those social contradictions attendant to the integration in American society. Through most of my life as an athlete, coach, athletic director, and activist in my community, those of us who are black hinged our bets and made our positions from the seats of the victims. We argued for a society where our color would not victimize us or be used by the larger institutional society to discriminate against us or deny us access to all that this great country has to offer.

As one pundit put it, we bargained with society in exchange for entry into the mainstream. This mode of the bargainer rested on the idea that in hopes of receiving full rights we would be required to give up certain things. On the other hand, we often took the mode of the challenger, one who says, "I don't think the playing field is level," and you, the larger white society, must prove to me or to us that it isn't.

The hitch, of course, is that blacks as a group succeed, for the most, when they challenge—challenging works best for the collective, while bargaining seems to work best for individuals. So, while these two modes have gotten us to where we are, this committee finds itself addressing an area that is not confined to the arenas and playing fields of our country. Rather, it is a larger societal issue.

In fact, looking back over the ups and downs and the long haul of my life through the major social changes in America in the arena of race relations, personally—this in good English—I ain't done too bad. I, personally, have come a long way, but I am still behind the line of scrimmage. But my institution and our athletics programs now find ourselves disadvantaged by the very racial progress that we all said that we wanted.

What exactly can be done? Once again, when stripped of the veneer and words that make this complicated debate politically palatable, the real frameworks and solutions like in that dreaded area of defending or denying whether some version of quotas or affirmative action, applied here at institutional levels, is the answer to our dilemma. Aren't we, after all, talking about competitiveness?

I would never want to be among those who would, by inference, argue that black folk and black institutions are in a better competitive position when we link our progress and individual and collective power to our status as victims—beggars. I have always taught my student athletes to be self-sufficient, to practice discipline, and to live their lives so that they would be judged by the content of their character. I live myself and have taught about hard work, knowing right from wrong, and I loathe what government welfare does to the human spirit and the value of competition. I also loathe slothfulness and dependency. I firmly believe that government intervention can sometimes prevent and hinder the development of personal responsibility and development.

But that does not always apply when we consider the status of far too many of our citizens. In this case, most athletics and other programs at Historically Black Colleges and Universities are not related as cause and effect to the belief held by many of our people and our institutions—they believe that many of our institutions aren't working hard enough or that black people and institutions like mine lack institutional discipline or that we don't know how to play the game. Far from it. We simply throw out the baby with the dirty water when we supposedly cleanse ourselves, as a society, from the dirt inherent in State-enforced segregation. In the showering process, the cleansing rituals of the past quarter century, we have found no way politically to maintain publicly supported, race-based institutional formats—the black colleges, in this case—and at the same time convince ourselves that such institutions could, like individuals, take their wares on the open market and compete equally.

I have intentionally raised more questions than I intend to make an attempt to answer. What I hope I have done is to take the risk to bring to the attention of the committee some of the real and harder choice aspects of this debate. Where we are in this dilemma is an outcome of choices made earlier on. Where we go will also be a function of brave men and women moving on the knowledge that we can and must see the value of Historically Black Colleges in this pluralistic society and do what must be done to maintain and strengthen them. And, sports is a real part of the game. Let the games begin anew. We need some new rules and level playing fields.

Mrs. COLLINS. Thank you.

[The prepared statement of Mr. Gaines follows:]

STATEMENT OF CLARENCE E. GAINES, COACH, NORTH CAROLINA A&T UNIVERSITY

Thank you for this opportunity to appear today to express my views on the current subject under consideration.

I pondered long and hard for my own contribution to this debate. What I wanted to say in the short time allotted me for testimony was not coming easy.

The other night, while thinking this over at a time quite past the hour this old man usually retires, my weary eyes were caught by the introduction, performance and ovation to B.B. King—the king of the blues—on Carson's Tonight Show. I mused curiously as the flamboyant though folksy king stepped into the dazzling light of the jazzy, modernistic, stylish set to unleash his standard "Everyday I have the Blues." The lights bounced off his guitar—which was equally festooned with high-tech acoustically-enhanced gadgets that reflected with the Tonight Show band's glitter and pizzazz. Carson and Ed McMahon joined the standing ovation at the final chord, as the predominately white audience reacted with fanatical "more . . . more . . . more" B.B., I thought, was in the big time. The mainstream. Tonight he stood for a moment basking in the hot response to his old standard. I imagined that he could have been thinking "where have these people been over the past 50 years . . . those lean years when me and Lucille were on the 'chitlin' circuit 360 nights a year . . . playing for mere pennies in dingy dives in "coloredtown" . . . sharing the fate of an accursed lot, laying-out our collective sorrows laughing at the absurdities of racism and segregation.

Making fun of "Ole Massah . . . Grinning and Skinnin" to keep our dignity by playing this blues—our music. Surely he was thinking "blues is a lifestyle . . . one must live it in order to truly appreciate it." And there was the blues, "live from Burbank. Far from Biloxi and Birmingham, Baton Rouge and Bluefield. Blues in the night on the Tonight Show. But, was "the blues" there or was it merely a single blues performer having slipped through the institutional gravity hold of a mainstream culture? B.B. was there, but where were Robert Johnson, John Lee Hooker, Muddy Waters, Jimmy Reed, Bessie Smith, Alberta Hunter and the thousands of other "unknown" bards, who, like B.B. had taken the work songs, spirituals, shouts hymns, and field shouts of black people from the fields . . . to the Tonight Show?

My mind wondered (or is it wandered) this direction because I think that episode speaks to the crux of the issue before us. I believe that "blues boy" King and me are about the same age. Like he, I too have labored in the fields . . . those "colored schools" . . . the institutional creeks and tributaries far from the so-called mainstream—in this case, the NCAA Division I. I have also had a few "hits"—like Earl the Pearl Monroe and Cleo Hill. I have also kept my frail, small craft afloat at Winston-Salem State University for nearly 1,400 games of roundball. I can call it my blessing to be mentioned in the same breath with my fellow Kentuckian, Adolph Rupp having won 874 games. But, fate would count not my time on the big stage. My generation of coaches and A.D.'s at HBCU's got no ingenious satellite downlinks that took our wares hither, thither and yon.

Jake Gaither had Bob Hayes . . . America got Bob when he hit the Cowboys. Eddie Robinson was pulling jack rabbits such as Doug Williams out of his hat in obscure Grambling, Louisiana Long before Sports Illustrated or CBS "discovered" the brilliance in the Bayous' where have Al McAfee or Morehouse College, LeRoy Walker or North Carolina Central, Ed Adams of Texas Southern, Ed Temple and John McClendon of Tennessee State been? I will tell you where they've been: They have been sparking folk heroes and heroines like Dick Barnett, Too Tall Jones, Wilma Rudolph and Edwin Moses. They've been doing it quietly and effectively outside the mainstream of the NCAA and the national media spotlight. Literally not making a sound as the proverbial falling tree in the forest that nobody heard.

Why have we not been heard? Why have our programs languished in the shadows while the stands and coffers and pockets are filled in programs and in the banks accounts of coaches in so-called mainstream institutions?

I would dare project that I have spent more time (a half century) coming up with my own solutions to this problem than the lifetime of most people on the committee. The answer is simple, and, with all due respect to the charge of this committee, we are debating today something that we all already know. Just like B.B. and the blues, Blacks in sports went big time. Institutionalized.

Mainstream-ized. And, just as what happened when Alice slipped through the channel to wonderland, Blacks in big-time sports found the yellow brick road no longer passes through Greensboro's A&T, Louisiana's Grambling, Houston's TSU, or Lorman, Mississippi's Alcorn, but rather, these talented Black kids know that the final four, or the major bowl games (with the pot of gold) are played in uniforms of the 'Ramblin Rebs rather than the FAMU Rattlers'—the Fightin Irish rather than the FISK Bulldogs—the Michigan Wolverines rather than the Ramblin' mauraders of Central State. It's simply a fact of life. An inescapable fact—an irreversible fact. Boys I could recruit a generation ago scoff at what I can offer them at Winston-Salem—this generation has been raised with "higher expectations." I can't sell my 'character-building' or 'we're one of you' line on the playing field of recruiting top athletes no more than General Motors can sell a Chevy because it's American. There is no presumption of loyalty to institutions that most of the present generation of Black kids have never heard of. We're in a pickle.

In trying to find the central threads in a cloth made whole for more than 50 years, I have been pulling hairs from my graying and thinning locks. But, mind you, I am no Rip Van Winkle who's head has been in the pillow for the past 30 years. Neither am I romantic enough to wish to turn back the hands of time. Sure, I know I would have won a thousand games by now had the recruitment pool not changed as a result of desegregation in higher education and higher sports.

But, the fact remains, Madam Chairperson, that since Texas Western's five Black players beat Rupp's Runts in 66, 82 of the 100 starters in the NCAA championship games have been black boys. Last year's four top seeded teams put 19 blacks among the 20 starters. We can only speculate on the billions of dollars that have accrued to mainstream programs, while those of us in the CIAA, SWAC and other 'Black' conferences—and thank God for BET—have continued to 'sing the blues everyday' we knew all the time what victory and beauty there was in our quiet songs. We'd been seeing the magic and airing-it-out in our small gyms for years—quietly wishing that the world only knew. Now that the world knows, we must bask—with the rest—in the reflected glory these boys now enjoy, but, we also know that their victories at mainstream programs are not cheered or shared in our relatively obscure institutions. We understand clearly what Dr. King meant when he said that "our fate is inextricably tied to theirs."

Yes, their victories have been our defeats. Their mounting assets mirror our mounting liabilities. Their silk purses are our sows ears. The changes we wished for from the time of Justice Marshall's ascendancy to the high court have brought changes to basketball courts.

Let the music continue to play. History does not move backward, nor tarry with yesterday. Let the whistles start more games. Let the policymakers make more propositions, but, I will leave you with one proposition made famous by Yoggi Berra. "The game ain't over til its over."

Athletic programs at HBCU's will have their victories. The rules of the games that have been played likely will change under the weight of their contradictions. The billion dollars revenues from which HBCU's are excluded, will, like the chicken, come home to roost. We see it all around us now—indeed in this very room. The paltry graduation rates of black boys at too many of these mainstream programs is a matter of public record that will not be tolerated much longer. The inequalities fostered by institutional monopolies will be rectified. I am sure of it.

This great Nation of ours was founded on the very principles that amateur sports reinforce in our collective lives and, at the same time, the purpose of this committee and these hearings reproduces some "The blues in this society". The blues of inequality and the way we wittingly and purposely reinforce and perpetuate racism and sexism. I have played a part too in our societal trend toward athletics instead of academics. I marvel at the "temples" we built to sports as religion in our society. I guess I am one of the lesser saints. I question the huge and expensive stadiums and arenas that have become to our society what the cathedrals were to medieval religious fanatics. The parallels are frightening. But, I am glad to be a part of this inquisition. I hope we get at the heretics and prune them out and level the playing field. And, it is my prayer that we "make the crooked places straight" and the "valleys be exalted." But, in so doing, we must remember that straightening out crooked things causes tension and pain. Leveling the hills to meet the valleys will require that a lot of sacred things be moved and removed.

It's going to cause some grunting and gnashing of the teeth. But, ain't that what the blues is all about. Everyday I have the blues. Let's play it together so that all of us can enjoy it. Let the games begin.

Mrs. COLLINS. Dr. Humphries.

STATEMENT OF FREDERICK S. HUMPHRIES

Mr. HUMPHRIES. Thank you very much, Madam. Chairwoman. I am very delighted to have this opportunity to address this committee on the plight of the Historically Black Colleges and Universities in athletics. And I would like to comment on, which is not in my paper, but aside from my paper, about several issues that I think the NCAA is addressing that I think are good.

The academic issues that we have treated over the last several years have been positive steps by the NCAA toward promoting the retention and better graduation rates for athletes in the membership of the NCAA. The requirement that academic progress must be made for a student, there must be courses taken that leads to a major, are all positive things to help prevent the exploitation of athletes in our institutions.

Proposition 48 still remains a problem for some of us, and the portended increase in SAT scores and requirements causes some problems for some of us inasmuch as Historically Black Colleges and Universities have been educating for a number of years students who have come rather maligned out of the public educational systems of our country; and we made rough diamonds diamonds as a result of those activities. Cutting off the ability to educate those kids does cause us some concern.

Particularly, with the black athletes, chances are that they will be poor. Just having a grant-in-aid that will cover room and board, tuition, fees and books, does not provide an allowance to take care of daily living needs is of concern to all of us who are concerned about administering well to the needs of those young men and women who give of their talent in the interest of athletics on our campuses.

So this whole question of being able to provide extra support for athletes is very much a great issue, and one that we need to bring resolution to if we are going to be fair to the young men and women who carry on athletics for us.

Now, I would like to comment on several things that I think we have failed in with regard to the level of support that we get for athletics at our institutions.

Number one, there is absolutely no reason for a play-in in basketball. Absolutely no reason to have—you have 34 conferences, you have got 32 slots for conferences to have automatic berths, and you have got 64 slots to fill. Every conference should be guaranteed an automatic slot to the play-offs in the basketball tournament. It so happens because the SWAC—the Southwestern Athletic Conference—and the Mideastern Athletic Conference are judged to be two of the weaker conferences in that they were forced to have a play-in for both conference champions, and therefore both conference champions were not included in the field of the 64.

If the purpose of athletics in our Nation is to talk about creating the attributes and valuing of teamwork, and high level of competitiveness, and teaching the values out of athletics, I don't see how that can square away with when you have got 64 slots, 34 conferences, and you say we want to just have 32, have automatic bids. The conferences all ought to have automatic bids to the NCAA basketball tournament.

And the second part of the tournament selection has to do with a conference having an inordinate number of representation in the playing of the basketball tournament. America greatly pronounces the next day, based on a committee which comes from the major colleges of America, that the Big East has six members in the basketball tournament, and already during the season we know that five of them have already lost to the top team in there. So it is not going to make a difference, they are going to lose in the final basketball tournament.

So having five and six teams represented we think is terribly unfair. And, if the idea is participation, then it seems to me that there ought to be some bids for independent schools to be selected for the basketball tournament; and for the conference-playing schools, then the conferences ought to have in round robin order one, two and three slots, until they are all gone out. But don't favor one conference over another conference in terms of that.

And so that is why the distinguished chairwoman can say that the Big Ten shared $705,000 from the last basketball tournament and the Big East got so and so and so on. What you build in is unfair competition. Because those who have the money are going to be able to do a wider spread recruiting, they are going to be able to get to see and use all kind of resources to recruit athletes, and it therefore creates an unfair advantage. And I think it violates the spirit of what we are trying to achieve in amateur athletes in this Nation.

Television. Early in the seventies, when we had Division I, II and III, and most of the black colleges were in Division II, and it was often that the top teams in Division II were black colleges—we had very strong athletics programs. And, in the early seventies, at Tennessee State, which is a university that I happened to be president of for some time during my professional career, for 2 years in a row Tennessee State produced the number one draft choice in the professional football draft: "Too Tall" Jones and Waymon Bryant. "Too Tall" went to the Dallas Cowboys, and Waymon Bryant went to the Chicago Bears. Back-to-back number one draft choices in the Nation.

In fact, in the early seventies, when you look at the rosters in the National Football League of where the professional athletes came from, it was not uncommon to find as many coming from Alcorn, Grambling, Southern, Florida A&M, Tennessee State, Jackson State as there were coming from Notre Dame, Oklahoma, and those places.

Well, the big schools got a little worried about their ability, and they got to raising sand within the NCAA, so the NCAA said, "We've got to have a greater divisional structure." So they introduced the notion of a Division IA, IAA; in terms of football, Division II and Division III. And when they created the structure the first time they elevated eight black colleges to Division IA, and within 1 year's time they had spoken to those eight black colleges and said, "Look. If you go down to Division IAA we will guarantee you television coverage." And, unfortunately, the schools bought that, and for the first 2 or 3 years they in fact got television coverage.

But once all of the schools were down in Division IAA, then the suit came. The suit was lost. Then the CFA formed, and since that day we have not been on television and not receiving the kind of money from television that was given to us.

My final comment to you, and I know the bell has rung, but I think this is an important point, and it is a point that I will complain to you about and it is a point that I have complained on the floor of the NCAA annual conferences every year. The NCAA is not a democratic organization. The major conferences have more representation than the smaller schools, and as a consequence, the structure of the organization, the council, the important committees are all chaired by Division IA schools and they, in essence, make all of the major decisions of the organization.

If you want to answer the question, what are those decisions driven toward? They are driven toward commercialization. They are not driven toward collegiality and they are not driven toward the sharing of the wealth or the economics produced by intercollegiate athletics in this Nation.

And so I think something has to be done about the representation. On the President's Commission there is a preponderant representation from the Division UIA schools. In the Council of the NCAA there is a preponderant representation by Division IA schools. And Division IAA, which we are a part of, have four members in each one of those Councils. But every major conference of Division IA will have representation on those Councils, and if you pay attention to looking at television when they choose the Basketball Committee, a Division IA school or a Commissioner of a IA conference will chair and most of the members of that committee will come from the Division IA schools.

My final point to you has to do with does the NCAA serve black colleges well. You take the classics that Commissioner Free has spoken of. When we have a bowl game, the NCAA has set regulations for a bowl game. They have said what you must have minimally to sponsor a bowl game in America. They have not said or bothered to even care about what the arrangements are for its members in these classics. When we hold the Circle City Classic there is no guideline that when we deal with promoters that come from the NCAA which says how we must be treated in negotiating a classic. There is nothing for the Atlanta Football Classic which says how we must be treated in that classic, and yet it is a phenomena that occurs all across the Nation. It would be extremely helpful to the colleges for the NCAA to show the same kind of interest in our externally played games and to set down some requirements so that everybody who wants to promote one of our games externally to our campuses that they would, in fact, guarantee that the schools get a very decent return for their participation in that activity.

[The prepared statement of Mr. Humphries follows:]

STATEMENT OF FREDERICK S. HUMPHRIES, PRESIDENT, FLORIDA A&M UNIVERSITY

I am very pleased to have this opportunity to address this congressional subcommittee on the impact of NCAA rules and procedures on Historically Black Colleges and Universities (HBCU's).

During the past three decades of collegiate athletics, the NCAA has undergone a fundamental transformation in terms of infrastructure and ideals, moving inexorably on a path contrary to its original hallowed goals and objectives.

HBCU's once enjoyed a cornucopia of athletic talent, fielding teams so rich in ability that they produced professional athletics in numbers comparable to the teams in the major conferences.

Institutions such as Florida A&M University (FAMU), Grambling, Tennessee State, Jackson State, Southern and other HBCU's were considered separate but equal by the National Football League (NFL). Oklahoma, Ohio State, Notre Dame, and other perennial football powers had no monopoly on talent or attraction.

Most of the HBCU's were in Division II of a three division structure, until a reorganization in the 1970's. The strongest Black colleges were put in Division IA including the Southwestern Athletic (SWAC) and Mid-Eastern Athletic (MEAC) conferences.

The St. Louis meeting in 1976 created Divisions IA and IAA Divisions with only eight HBCU's upgraded to Division IA. Following that decision, the NCAA convinced the eight HBCU's classified as IA to move to IAA with future television coverage of IAA games as an incentive.

Downsizing the Division IA membership weakened the competitive strengths of Historically Black Colleges and Universities through false promises which led to the elimination of national and regional television coverage for black college football teams.

The loss of television coverage has taken away one of the key recruiting tools for HBCU's. The televising of the Bayou Classic by NBC is a belatedly glaring exception. No HBCU can promise potential recruits that they will be seen on national television.

The committee should pay special attention to the national popularity of HBCU football games. Black college football classics draw competitive crowds that match or exceed the attendance of Division IA games. This fact clearly demonstrates the value of these games to a national population of college football enthusiasts.

Two HBCU's, FAMU and Tennessee State University were the first teams to fill Grant Stadium, the home of Georgia Tech University. Before the 1989 Ebony Classic, the 48,000 plus stadium had never witnessed a standing room only crowd at a football game.

The Bayou Classic in New Orleans averages more than 70,000 fans annually, the last Circle City Classic in Indianapolis had 62,000, the Florida Classic in Tampa is approaching 50,000, and Howard University and Alcorn played before more than 46,000 in Los Angeles last year.

I submit these figures to demonstrate the national interest and desire for Black college sports, because these games draw as well as any schools in the country and deserve television coverage.

If small predominantly white colleges were drawing similar crowds, I believe that ESPN, NBC, ABC and CBS would read the situation differently. We are seriously concerned about the possibility of a conspiracy to prevent Black colleges from receiving appropriate television coverage.

Today only IA schools enjoy the advantages of regularly scheduled television games. Every football Saturday the opportunity for black colleges to recruit outstanding athletes decreases with every play on the television screen.

The NCAA is not a democratic organization. The membership and governing structure is not representative of the one-man one-vote model that promotes equal opportunity and encourages maximum growth within a cooperative community.

Division IAA has only four representatives on the NCAA Council. Division IA has a representative for every conference resulting in a structurally biased body pre-disposed to wielding influence disproportionately. Additionally, the NCAA Tournament Selection Committee is predominantly IA and all other major committees are chaired by Division IA representatives. The Democratic ideals that made the United States a great Nation have been distorted by the NCAA model which has nearly all of its major committees chaired by representatives from Division IA schools only.

There are 34 basketball conferences in Division I, but only 30 have automatic berths to post-season tournament play. Restricting the two black conferences to play-in games to qualify as one of the final 64 teams in the NCAA tournament sends the wrong signal from an organization whose "raison detre" stresses the importance of team play.

There is no logical reason why all 34 conferences can't have automatic berths. Clearly, the NCAA would prefer to restrict the NCAA tournament to the major conferences.

Consider the revenue disbursement for basketball when you allow a single conference to have as many as five or six teams participate in the tournament. The money sharing formula permits the strong major conference to become stronger and serves as a deterrent to HBCU's. It's the classic case of the rich using influence, power and money to get richer through rules and procedures that weaken the promise and potential of Black college athletics.

Students with superior athletic talent are identified as early as the ninth grade. The black student athlete in particular undergoes the transformation from student to jock when principals abdicate their responsibilities and put the students under the control of a coach.

Many of these students would benefit from attending a 4 year institution. Historically Black Colleges and Universities have demonstrated their ability to educate and graduate student athletes. However, they are denied free access to these young people who are shuttled off to other institutions by high school coaches who attempt to maintain the status quo in collegiate athletics.

I have met many young men who have not received proper counseling and never get the chance to explore their options. HBCU's are closed out of the process. Students who could have come to my institution are enrolled at junior colleges, letting football override everything else, laboring under the false impressions that they matter first as students and not athletes.

The next step in this process by the NCAA is raising the academic requirements for all schools. If the major conferences want to protect their academic image, then let them recruit athletes who are typical of their student bodies.

Why deny HBCU's the opportunity to pursue these students with vigor by the imposition of rules and procedures that put the students in precarious and unsupportive environments.

The NCAA has moved to penalize HBCU's who have scheduled key games during the Thanksgiving Weekend. Restricting eligibility for post season playoffs to teams with schedules completed the weekend prior to Thanksgiving is one of the most blatant examples of the abuse of power by the NCAA.

Many Black colleges have their key games during the traditional Thanksgiving Weekend. The reason is very simple. The Thanksgiving games are the single largest revenue generating source in the team's athletic budget. The revenue from these classic weekends help drive the entire athletic program. Yet we are required to give up these games in order to retain eligibility for the NCAA Championship.

Without the Florida classic, our annual opponent has indicated that its athletic program could not continue at the same level and quality that it now enjoys. The same could be said for FAMU and for other HBCU's who play on Thanksgiving weekends.

These are the kinds of things invoked by the NCAA that are not conducive to HBCU's maintaining membership and equitable participation in NCAA programs.

Mrs. Collins. Let me begin my questioning, by asking you what are some of the treatments that you are not receiving that you would like to receive from NCAA?

Mr. Humphries. Well, number one, I would like to see the NCAA develop some guidelines for the classics that we hold which says to the promoters of those events, just like they say to the bowl committees that are held in a city——

Mrs. Collins. What are some of those things?

Mr. Humphries. Well, for one thing, they say that 75 percent of the gate has to go to the two participating schools. And there are some other requirements. I mean, you can't even talk about a bowl unless you are going to guarantee a certain minimum put up of dollars. And, so if somebody wants to have a bowl, they got to make sure that they can guarantee those kind of commitments to the two teams that are going to play.

Well, we play these classics, and I think that the NCAA could be very helpful to us if they put some kind of minimum requirements on those classics that we play in these various cities throughout the country.

Mrs. COLLINS. Did you want to add something else?

Mr. HUMPHRIES. No. I think I am through.

Mrs. COLLINS. OK. Let me then go to Mr. Free. Commissioner, you have mentioned and you have in your written testimony a number of contacts, that you are a member of various organizations and what have you—in the Commissioners Association; National Athletic Organization, an officer therein; CAA Executive Committee; University Commissioners Association; NCAA Committee on Basketball Issues; the National Association of College Directors of Athletics' Executive Committee; the Collegiate Commissioners Association; the Professional Sports Liaison Committee; and the NCAA's Men's Division I Basketball Committee.

And you said despite all the national contact over the past 14 years you have found it very difficult to market the MEAC and its members because of the dominance of power of larger conferences and institutions. I want you to elaborate a little bit more on that for me.

Mr. FREE. Well, serving on committees, you know, I listed those just to give an idea that we have some involvement within the NCAA. But, of course, when you accept a position on those committees, of course you become a representative of the membership. We at times have used my presence to offer whatever assistance I can to our conference and all, and I think the NCAA has—some of the good things that are happening to black colleges in Division I has been as a result of making the NCAA aware of some of the sensitivities about us.

Mrs. COLLINS. Well, when you begin to make these suggestions, you know, are they all turned down on face value or do you have to plead the case? Or what happens?

Mr. FREE. Well, in some cases it comes down to—you can plead a case but sometimes it boils down to statistics, records. When you deal with—we deal with strength of schedules a lot of times, which I have argued a lot of times that we in this business—when I say strength of schedule I mean if we are ranked in a certain level, of course, one of the criterion to determine where you are ranked is how tough your schedule is. And, of course, my argument is that the larger schools or the top 20, particularly in basketball, you know, won't play us. Plus it makes no sense for us to play a Wake Forest—I am using that as an example—when I can double my gate playing a Winston-Salem State, even though they are Division II.

But, as I said before, a pair of shoulder pads costs the same for a Division IAA player as it does IA. So, economically, we are playing Winston-Salem, but strength-of-schedule-wise it doesn't show up. So I have a hard time, maybe, at that point convincing them that we have strong enough competition to be ranked higher or that kind of stuff.

But, on the same token, when it comes down to either/or it has been very easy to, for an example, to play in. Even though I am on record maybe saying what Dr. Humphries has said, that maybe the automatics should be extended. But I am also knowledgeable enough to know that it did not have to be a play-in. And I don't think a play-in was in place until some of us, what we call ourselves, Third-World-type conferences made them aware that a play-in was better than nothing.

Mrs. **Collins**. Let me get to something a little bit more. You mention also in that same paragraph on page 2, you say that perhaps one of the reasons why it has been very difficult for you to market is because of the influence of the larger conferences and institutions, and you mention specifically, and I am quoting now, "Their influence with television, advertisers and major sponsors have steadily hampered our promotional endeavors."

Mr. **Free**. Yes. And what I mean by that is basically——

Mrs. **Collins**. How much influence would the networks have? A lot? Little bit? On a scale of 1 to 10.

Mr. **Free**. Well, they have a lot.

Mrs. **Collins**. Would you say 10?

Mr. **Free**. Well——

Mrs. **Collins**. Nine and a half.

Mr. **Free**. Nine and a half.

Mrs. **Collins**. What about the advertisers who support these television programs, how much influence do you think they have?

Mr. **Free**. A lot.

Mrs. **Collins**. Dr. Humphries.

Mr. **Humphries**. Well, they claim nothing.

Mrs. **Collins**. They claim nothing. But how much do they have?

Mr. **Humphries**. Let me give you one down home, Representative Collins. I made a presentation to the Department of Defense, to the Army, which spends $100 million in advertisement: "Be all that you can be." And those dollars are spent on athletics, and is spent on CFA athletics. So there is a requirement by Congress that 5 percent of the dollars ought to be spent on Historically Black Colleges and minority small businesses.

So I made a direct request of the Department of Army and the people who let these advertising contracts. It is $100 million. Five percent is $5 million. No question in my mind that $5 million worth of support will get on television, and we will benefit. Not only would the companies benefit, but the colleges would benefit from that and put our athletics on. Because still—and the case is even, I mean it is better because about 30 percent, 35 percent of the Army is black and so it represents a wonderful Army. And you don't have to go through all that stuff to say whether we can do it or not because it is so clear. You just simply tell your public relations firm, "Spend 5 percent of the money on Historically Black Colleges and Universities athletic events." Find a way to support them for the 5 percent. And it can be done, and games will be on television.

Now, I cited in my paper, my testimony to you that, you know, there are 76,000 people that go to the Bayou Classic. And our own Florida Classic, we have 50,000 people. The first time that Grant Stadium has been sold out, it was not sold out by Georgia Tech, it was sold out by Tennessee State and Florida A&M, 2 years ago. Georgia Tech wasn't winning then, and so the most it had is about 40,000 people in there. When we played in their stadium, we put in 48,000.

It demonstrates that across this Nation there is an interest in the people to see our athletic programs. Now, that normally is enough evidence by ABC or NBC to put them on. Because you got people out there that you can now market your marketing—I mean do your advertisement on because they want to see it.

And I would submit that all of these classics that we play in and the numbers that go there indicate that in urban America, in these big markets, that people want to see black college football and black college basketball. And we can get on that and satisfy that thing.

And, as Ken Free said, there is a pressure that comes from our colleagues at the major institutions, because they worried. If we ever have two or three blue chippers on our team, they get worried about that. Then they want to change the rules. Because they worry that if we are successful in doing that we might upstage them in the process of college athletics. And so this whole thing works to prevent you from being prosperous in athletics in this country today.

Mrs. COLLINS. Thank you. My time has expired.

Mr. McMillen, who will take the gavel for a few minutes. Would you, please?

Excuse me.

Mr. MCMILLEN [presiding]. Thank you, Madam Chair.

One of the questions that I would like to ask, because I have been working on legislation in this regard, is, I heard the testimony that since the antitrust exemption was thrown out in 1984, you are neither getting the money nor the exposure. Which is more, if you had to pick the most important, the money or the exposure?

Mr. HUMPHRIES. Well, I think we need both things.

Mr. MCMILLEN. I understand that. But I am asking if you had to pick one.

Mr. HUMPHRIES. If I had to pick one right along here now, it would be money, and I want to explain that. To do all the things that we need to do to be very supportive of getting our kids graduated, we need a very strong academic support program. And to me, what I would do, if I got extra revenue, is to try and support the program as best I can, so that I be protective of the athletes who are playing; that is, provide adequate coaching and adequate equipment and adequate conditions to practice and play on, so that when they are out there giving their best for me I know that I have given them the best sort of circumstances, so that they won't get hurt and they can best compete.

The next thing that I would want to do is to put that money into academic support to assure that they graduate, and I think that is terribly important. And, as it stands today, because we are not getting the full force of the resources that could be had by black colleges, we are not able to put as much money as we could possibly put into the academic support of the athletes, which I think is terribly important to be able to do.

Mr. McMillen. The reason I asked the question is because I don't want to mandate exposure for you and not give you the money.

Mr. Free. Well, I want to respond to that because we are asked that question a lot, and I think sometimes we are asked that question because some of the people we are trying to get funds from expect us to want exposure versus money. My answer to them is this. We want the money because we can't get money. We can buy exposure.

Mr. McMillen. Right.

Mr. Free. So, if we get the money, I know how to get the exposure.

Mr. McMillen. The bill that I have introduced could vary. I mean, I have talked to a number of Members of Congress who are interested. I mean we put in a number of criteria that are more egalitarian in scope, but it could be easily changed to ensure that Historically Black Colleges get a fair share of the pie.

But, historically, one of the questions I would like to know, after the antitrust exemption, did the revenue to Historically Black Colleges go down or up from the NCAA?

Mr. Humphries. It went down.

Mr. McMillen. It went down. For the record, it went down.

Mr. Humphries. Yes.

Mr. McMillen. Coach Gaines, a recent study of CFA athletes note the need for stipends. Do you feel that student athletes should receive a tax-free stipend?

Mr. Gaines. I think so. I will agree with Dr. Humphries and Ken on the money situation. You need resources. Well, you see, the first—as far as the Division II school is concerned, and that is what we are—we have 2,600 full-time students—they generally—well, we won a College Division scholarship championship back in 1967. We were known as College Division at that time. And all of a sudden we came up with Division I, Division II and Division III.

Division II is perceived by athletes as they come through as being second class. The first place that we get raped, Division II and the predominant black institutions, is by the media. In other words, they will see Tom McMillen. He is a sure Division I product. There is no way in the world, actually, that I can recruit a Tom McMillen.

Go back and look at the statistics. Over the last 4 years, as far as quality of athletes, not a single youngster that attends the Nike camp—the top 200 kids in America—have gone to a predominantly black institution. That gives you some indication there.

As far as our continued existence in academics and in athletics, I think really we need some way to get exposure, buy exposure or whatever it is, so that individuals can perceive us as being first class as turning out a first-class product. So I would like to have them go hand in hand.

Mr. McMillen. Well, the reason—I mean, in my work with the Commission, I mean we talked about a stipend because the concern was so many student athletes can't live under the strictures that the NCAA has them living under. And, if they go outside those strictures, the school gets sanctioned. It is a very, very difficult box kids find themselves in. You know for years, until they finally changed the rules, I mean you couldn't even go to a funeral, their father's funeral. But they did change the rules on that. But there are examples like that where these kids are putting their blood and sweat and tears on the field and they are not—they can't even survive on our college campuses. Our bill does address that.

A question about Federal intervention. You know, you hear it time and time again. We should not be here having these hearings. That this is not the appropriate forum. That we don't want to bureaucratize college athletics.

But my question is, do you think that the NCAA can take the kinds of reform that you gentlemen would like to see internally? Are they going to change internally on their own?

Mr. **Humphries**. Well, I think the NCAA has made strides.

Mr. **McMillen**. Are they going to change sufficiently to satisfy your needs?

Mr. **Humphries**. Well, now that is a different question. I mean, I would like to answer that this way. I think that the NCAA is going to take on the question of getting academic respectability back into these, because the major institutions are concerned about that. And I think that we are going to do and get the legislation that will do that.

Now, I also think it is going to be at the expense of some opportunities for black athletes to go to college. Because in doing that it is going to be a little selfishness exerted, which namely is the major institutions are going to do what they consider good for them, and where it is good for us, that is a different question, and whether it is good for the athlete in terms of maximizing his options to get a higher education, I don't think so. But they are not going to take any measures that cut down on their money, and they are not going to solve that problem.

Mr. **McMillen**. So you don't think that a new model for money can be changed from within the NCAA structure?

Mr. **Humphries**. I really don't think so. Not the money.

Mr. **McMillen**. Well, that is what I am talking about, the money.

Mr. **Humphries**. Not the money.

Mr. **McMillen**. You see, the problem all along is the money. I mean we can talk about everything else, but it is the money. I have always said from the very beginning of this process it is the money that drives it.

Mr. **Humphries**. We had a great opportunity to do that. With the excess money from the basketball tournament, we had a chance to make a good egalitarian and say that the athletes counted.

Mr. **McMillen**. Right.

Mr. **Humphries**. But they chose a distribution formula that has, historically, the more money you made off the basketball tournament the more you got.

Mr. **McMillen**. Well, it is an arms race going on. Unfortunately, those at the bottom of the arms race are getting pushed out of the business and over the cliff, and many of our Historically Black Colleges are an example of that.

One last question. Mr. Humphries, you said the NCAA Council is not democratic. In the legislation that I have proposed I would comprise a Board of Governors, Board of Directors of the NCAA which would be run by active presidents, 33 presidents, with equal representation by Divisions I, Divisions II and Divisions III. Wouldn't that stop the kind of tilting towards, you know, the big, big schools that is under the current structure? And would you favor that?

Mr. HUMPHRIES. As long as there is adequate representations from all sectors of Division I in the governing structure.

Mr. MCMILLEN. Do you think our bill should be more specific about——

Mr. HUMPHRIES. I think your bill should be more specific on that.

Mr. MCMILLEN. Well, to allow broader representation within the respective divisions so that——

Mr. HUMPHRIES. Divisions.

Mr. MCMILLEN. I see. I appreciate your comments.

And again, what we are trying to do is come up with a new model, and certainly a new model that can be broad-based and where everybody wins. I mean, you know, it is ironic that the NFL learned a long time ago that, you know, a collective, cooperative model is in the best interest of the NFL. It worked very well for them. They shared the wealth and everybody has—all the votes have risen equally, and I think there is a model for college sports there as well.

Mrs. COLLINS. Dr. Humphries, I just wanted to ask you a couple of quick questions here. You mention in your written testimony—you talk about the loss of television coverage has been taken away by one of the key recruiting tools for Historically Black Colleges, and you mention that that happens to be television.

Do you see that—do all of you see this as a major impediment to recruitment? Starting here with Mr. Gaines. Coach Gaines?

Mr. GAINES. Yes, most definitely. I said while you were out that we really get raped by the media, because the more these kids see—for example, if we had an Earl Monroe, the more they would want to come to that school. I get to do quite a bit of traveling, and around the country the only exposure we actually get, period, is BET. For example, our conference tournament—that is, the Central Intercollegiate Athletic Association—is probably one of the most successful tournaments in the country, and the only coverage we can get is BET.

It is a major deterrent as far as our recruitment programs are concerned. Because if you look it up and the top 200 youngsters over the last 4 years, none of them have gone to a predominantly black institution, it tells you that we are not getting our message over, that we don't have quality programs, and you can't be drafted to the professional leagues, and that is what most of them aspire to be.

Mrs. COLLINS. Well, we thank you very much, gentlemen, for your testimony today. Now, there may be some questions that we have for you that haven't been asked now, and we will send them to you. In case that is indeed the fact, we would like to have responses to those within 5 working days from the time you receive the questions, so that we can close the record on our hearing today.

Thank you very much.

Mrs. COLLINS. Our next panel will be Mr. Charles S. Farrell, who is the president of Sports Perspective International; Dr. Clifford

Adelman, who is the director, Division of Higher Education for the Office of Research and Development, U.S. Department of Education; and Mr. Anthony Pace, The Renaissance Foundation. Won't you come forward, please?

We are going to begin with you, Dr. Adelman.

STATEMENTS OF CLIFFORD ADELMAN, DIRECTOR, DIVISION OF HIGHER EDUCATION, OFFICE OF RESEARCH, U.S. DEPARTMENT OF EDUCATION; CHARLES S. FARRELL, PRESIDENT, SPORTS PERSPECTIVE INTERNATIONAL; AND ANTHONY PACE, EXECUTIVE DIRECTOR, THE RENAISSANCE FOUNDATION, ACCOMPANIED BY ALBERT MITCHELL, BUSINESS DIRECTOR

Mr. ADELMAN. Thank you very much, Chairwoman Collins, for inviting me to talk about the study, "Light and Shadows on College Athletes," and the relevance of its findings for young black Americans, as well as for the Historically Black Colleges and Universities. I think first I need to say something about the sources I used for this particular study, which I am representing today. I should say right at the outset, in my capacity as the author of the study and not to convey official policy of the U.S. Department of Education, since I am going to be very frank with you, very candid, I think that is probably a wise stance.

The source I used for the study is something that would have been impossible without the assistance of Congress, and that is the collection of longitudinal studies that are run by the U.S. Department of Education. Longitudinal studies, as you know, are motion pictures; they are not snapshots. They take general generations and they follow them in and out of school, college, careers for many, many, many years.

There are three generations we are studying at the present moment. Each one is about 10 years apart. The sample of black Americans in these studies is rather substantial, and 10 sessions of Congress under five Presidents have sponsored them. They are your studies basically, and this afternoon I would like to show you what they can do.

The grandmother and the one I used for this particular study, "Light and Shadows on College Athletes," followed the high school class of 1972 from their high school graduation line until they were 32 or 33 years old. While I wish this study had continued, the archive contains a unique and powerful component; namely, the college transcripts for this generation of people through the time they were 30 years old. That is, we gave them 12 years to go through higher education. And the evidence of whether they did or they didn't or how they went through and through what kinds of schools come from transcripts, and not from testimonies of coaches, directors, athletic directors or college presidents.

So when we give you graduation data that come from transcripts that are unobtrusively obtained like this there is no hocus-pocus. You see things too that you can't see if you cut these records off at 4, 5 or 6 years, and that is where I disagree with the data that was cited before by Congressman McMillen from Maryland, as we will see.

What did the study of varsity football and basketball players show? The transcripts, that is, the actual records, tell us that the varsity basketball and football in this generation completed bachelor's degrees at a rate only slightly lower than that for everyone else, given 12 years; and that the black athletes earned degrees at a higher rate than all other black students and, in fact, at a higher rate than other groups of students, particularly students who were never athletes at all.

The transcripts also tell us, however, and here is the first wrinkle, that it took them longer to do it. So, if it takes them longer, why do other studies cut off the time? We give people time. It took them longer to earn the degrees, and, in fact, they did take a garbage curriculum along the way. I don't think there is any question about that. We had, I recall, one student in there with 16 credits in basketball, another with 9 credits in something called Recreation Internship, which means you go down to the park and you suit up and play whatever you are going to play, and all kinds of colleges hiding sports credits, is what I call them, under funny titles on college transcripts like Independent Study in Athletics, you know.

I also looked, however, at what happened to the ex-varsity basketball and football players after college, which you can do with this particular archive, at age 32-33. And again, contrary to much of what you have heard, these people, including the black athletes, had the highest rates of home ownership, the lowest rates of unemployment of any comparable group of 4-year college students, and, in fact, their average income was 10 percent above that for their peers and none of them were professional athletes.

We found, in fact, that varsity athletes led a fairly privileged life from the time they were in high school into their 30's. Privileged, that is, compared to other folks who went on to higher education. They had safety nets and supports that were not available to others. The AIR study that was done for the NCAA shows the same thing.

Now, this story was a newspaper columnist's dream. Imagine "College Athletes Aren't Really Exploited," you could see the headlines. Imagine poor black kids who can put a ball through a hoop actually make out OK, even if they don't play professional ball. Higher education works.

Now, I am going to call the question, Mrs. Collins, three times. What is wrong with this story? And what is wrong with the response to the story in the newspaper columns?

First thing that is wrong is that we care more about the 3 percent—I will repeat that figure—3 percent of 4-year college students who are varsity football or basketball players than the 97 percent who are not. And among black college students the ratio is about the same, 97 to 3. And, if the first and most visible questions we are asking in public policy are about varsity athletes and movie stars, if we go for the glitz, then we are saying nobody else counts. And, in the context of college athletics, we are saying—the way it is treated, not because it is true, but the way it is treated, we are saying that women don't count either, and I think we better think twice about that.

Now, I fell for this false primacy of glitz and I was wrong too. I pushed this study of athletes out ahead of all the other studies I was doing on the NLS '72 database because Congress was talking about varsity athletes in the Student Right-to-Know Act, and I thought if the athletes story came out first it would make the papers, I could catch your attention, and maybe influence the course of the legislation.

Well, I am here this afternoon but it is too late to influence the course of that legislation, and I may be here for the wrong reasons, but I am going to try to set it right.

So I think that the second message I want to say about what is wrong with the way in which people responded to the story that we heard, and you heard a little bit of that from black college representatives before, is that it sends the wrong message to wrong people, and to young black Americans in particular, by implying that the only measure of collegiate worth, the first one we mention is whether you play varsity ball. If our public ceremonies tell young people time and time again that the only way they will be somebody in college is to play ball, many will not even make the effort to go to college. They lose and the Nation loses.

What is wrong, for the third time? I think you mentioned this at the outset. I know you mentioned it. The mission of college is education and not entertainment. We all know that the discipline and teamwork that is evident in athletics is as valuable in the same as the discipline and teamwork of playing in an orchestra or in a drama troupe or working on a college newspaper. But we also know that those activities exist outside colleges in ways that the study of organic chemistry or African history or communication disorders are not.

If you look at the charters of the Historically Black Colleges to which young black Americans look for inspiration even if they go somewhere else to school, you will see that emphasis on education, and Fred Humphries certainly underscored it before.

Why is it that the Student Right-to-Know Act asked questions, in fact, about the graduation rates of black football players and didn't ask questions about the percentage of black college students who studied foreign languages or statistics, two subjects that in light of this committee's jurisdiction you know are critical to participation in a globalized workforce in an information age. That is the kind of issue we ought to be talking about, and about the Foreign Service officers and computer systems analysts and international sales managers and others who are graduates of Historically Black Colleges in this country and who are outstanding participants in the world economy. Those people, from where I sit in the U.S. Department of Education, must be the role models for the 1990's, not varsity athletes, and I know that the Historically Black Colleges know that. It is time for the rest of us to get off the glitz.

Secretary Alexander's plan for America 2000, as you know, calls for a renewed effort in the continuing education of the American work force. My office, the Office of Educational Research and Improvement, has begun the process of encouraging the participation of the Historically Black Colleges in this effort. We do so because we take the HBCU seriously and their role in national economic development seriously. We do so because we are serious about the larger body of students, including adults who are already in the workforce, who attend or might attend these institutions. We are not going for the glitz anymore.

Mrs. COLLINS. Thank you.

[Testimony resumes on p. 193.]

[The prepared statement of Mr. Adelman follows:]

Testimony for House Energy and Commerce Subcommittee
on Commerce, Consumer Protection and Competitiveness

September 12, 1991

Clifford Adelman, Director, Division of Higher Education,
Office of Research, U. S. Department of Education

Thank you, Chairwoman Collins, for inviting me to talk about Light and Shadows on College Athletes and the relevance of its findings for young black people, as well as the Historically Black Colleges and Universities. I should make it clear, at the outset, that I am appearing today in my capacity as the author of this study, and not to convey official policy of the U.S. Department of Education.

Light and Shadows is a study that compares the educational careers and labor market experience of college varsity athletes to the careers of other four-year college students, and from the time they were in high school through age 32/33. I conducted this study last year under the auspices of the Department of Education's Office of Educational Research and Improvement, using a database that was created through the support of 10 sessions of Congress and 5 Presidents. Light and Shadows was possible only because of the modest but wise investment made by the Congress over the years in the Department's Longitudinal Studies Programs. You have helped create extremely rich national archives. What I'd like to do this morning is to show you how those archives can be used, and what we can learn from them.

Light and Shadows continues to receive a great deal of attention in the media. It has been the subject of syndicated columns by pundits as diverse as David Broder and James Kilpatrick, not to mention a roster of sports writers. During the past few months alone, I have been privileged to discuss its messages with receptive and responsive audiences such as those at Howard University's annual national symposium on the black athlete, the faculty athletic advisory council at the University of Southern California, the National Association of Collegiate Athletic Directors, and a variety of Congressional Staff who deal with higher education issues. Through these discussions, many people are beginning to appreciate the kind of national archives we already possess.

What kind of archives are these? These are longitudinal studies. These studies start with a single generation of Americans at a given point in time, and follow the same group of people for many years--follow them in and out of school, college, work, family, community life, changing aspirations and plans, changing attitudes and opinions, and follow them in sufficient detail (e.g., courses taken in college, reasons for leaving a job) so as to generate a multidimensional portrait of their lives. What results is a motion picture -- not the kind of snapshots we usually see in national data -- and in that motion picture, a drama that can help us explain the consequences of decisions made by individuals and policies made by others.

The Department's longitudinal studies are not designed to study specific groups of people, such as varsity athletes. They are designed to study entire generations. We deal with all the fish in the sea. Even though we may over-sample minority populations so that the numbers for some sub-groups are sufficient for statistical analysis, we don't let some fish in and keep others out. Once the group is established to represent its generation, whatever subsequently happens, happens. For example, some people will become college varsity athletes, and some won't.

With the support of Congress, the Department is conducting three major longitudinal studies, each focusing on a generation about ten years apart from its predecessor. The grandmother of the studies, and the one I used for Light and Shadows, is called the National Longitudinal Study of the High School Class of 1972 (hereafter referred to as the NLS-72)*. In this year of 1991, no other reference provides such a wealth of information. There is no group as large (22,650) that anyone has tracked in such detail from high school into their mid-30s. And no other archive is as accurate in matters of education as is the NLS-72 because we used actual high school records, test scores, and, most importantly, college transcripts.

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* The others are the "High School and Beyond" studies of the Classes of 1980 and 1982 and the "National Education Longitudinal Study," which started with 8th graders in 1988.

The college transcripts, accounting for everything this generation did in any kind of postsecondary institution between its high school graduation in 1972 and 1984 (when they were 30/31 years old), form a unique aspect of the database. I think you can instantly see why:

(1) Whatever their limitations, transcripts don't lie, don't exaggerate, and don't forget. On the other hand, as my friends in the Census Bureau know, people responding to surveys tend to do all three.

(2) No other national record gave people 12 years to move through the higher education system, 12 years to finish college, 12 years to do whatever they do in higher education. And when you track people for 12 years, you can come to some real conclusions about how long it really takes people to earn Associate's degrees or Bachelor's degrees, and about how and when they do it.

* * * *

Let me summarize quickly what I reported in Light and Shadows. Talented athletes of all races enter a very special economy at a young age. This economy sustains them for a long time, whether or not they wind up as professional athletes (and very few do). This "safety net" economy provides special training and special consideration from high school through college and beyond. Talented athletes receive services in-kind, no matter what kind of students they are. Our society places a high value on entertainment, and is willing to provide those services to those who will entertain, whether on the stage or the playing field.

In the case of student athletes, more than for performing arts students, though, the society makes sure that these services continue once they enter college. Athletes are more likely than any other group of students to receive scholarships, and black athletes more likely to receive scholarships than other black students who, in turn, are more likely to receive scholarships than students from other racial or ethnic groups. Athletes are more likely than other students to enter college directly from high school, and black athletes are far more likely to enter college directly from high school than other black students. Obtaining scholarships and entering college directly from high school have strong positive effects on the likelihood of completing college, no matter how long it takes.

As it turns out, varsity football and basketball players in 4-year colleges graduate at a slightly lower rate than other students. Black varsity football and basketball players graduate at a higher rate than other black students, and at the same rate as the category of "non-athletes" of all colors.

The importance of this finding cannot be understated, as the NLS-72 is the only long-term data base in existence that bases its account on transcripts and not on the testimonies of coaches, athletic directors, college presidents, or the NCAA. And unlike the NCAA's formulas for determining graduation rates, Light and Shadows didn't "adjust" anything. We have no axe to grind, nor any special case to make.

Unfortunately, I also found that it took varsity football and basketball players longer than other groups of students to complete Bachelor's degrees, and that, more seriously, the curriculum pursued by many of them can best be described as garbage -- in fact, an extension of and catering to the very poor preparation many student athletes had in secondary school. We had varsity athletes in this sample who earned 16 credits in basketball; we had varsity athletes in this sample who earned 9 credits in something called "Recreation Internship"--which means going down to the park and playing whatever it is that you suit up for. We had varsity athletes in this sample with a half dozen transcript entries with titles such as "Advanced Sports," "Team Activities," and "Competitive Athletics." There are schools that allow this to happen, and often try to hide what I call "sportscredits" under other titles on transcripts.

These schools aren't kidding anybody. But the messages these practices send to high school students -- and think of black youth, in particular -- do a double disservice. These practices sustain the myth that college is just like high school, that you don't have to make much academic effort, that you can get through on credits from courses that are essentially play. When black kids get to college, they find out that that myth applies only to athletes. It's a rude surprise, and too many black students fail to complete degrees. We'll come back to this observation.

Now, there was another set of findings in Light and Shadows that the commentators found equally -- if not more -- fascinating: ex-varsity football and basketball players make out fairly well in the labor market, whether or not they earned a Bachelor's degree. The safety-net economy still takes care of these students, pays them for entertaining the rest of us, and makes life easier. The coaches make sure the kids get summer jobs. The boosters make sure the kids get jobs when they leave college, whether they graduated or not. At age 32, ex-varsity football and basketball players had the lowest rate of unemployment of all groups, and their average earnings were 10% higher than the mean for all other groups who attended 4-year colleges. It's not surprising, too, to note than they had the highest rate of home ownership at age 32 among all the groups in my analysis.

These are impressive economic outcomes, particularly for black students, who tend to come from low socioeconomic status backgrounds. Participation in varsity athletics works in terms of economic mobility through one's early-30s. It works because of the safety net, the peculiar protective economy to which only privileged people of athletic talent have access.

But the safety net ultimately deceives, and two other shadows fall on ex-varsity athletes at "30-something." First, the jobs they hold--while providing decent income and job stability--are of lower status and offer less long-term mobility than the job patterns for other groups. Second, these people, who had comparatively poor academic records in both high school and college, and whose intellects were not challenged by the kind of curricula they tended to take in college, were the least likely of any group to say that they worked a great deal with ideas at age 32. Ideas are at the heart of the information economy, and the information economy is where true power and liberation lie. If we came back to the generation of the Class of '72 at age 42 (which, unfortunately, we have no plans to do at present), I don't think the ex-athletes will look that good. There is just so long that that special treatment will last.

Please don't say that these data are old and that it's all different today. Frankly, we don't know that. We don't have any other generation that is 30-something, and that we have followed like this one. We're building one, though. Next year, we'll have completed 12 years of the same kind of data for folks who were sophomores in high school in 1980. We'll be able to do some time-series data--Class of '72 versus the Class of '82. But we can't do it yet. Unfortunately, people don't accumulate histories overnight.

So much for the story and message of Light and Shadows. Now let's look at the real messages, and the messages that are of particular importance to the education of black Americans and the roles of the Historically Black Colleges and Universities.

First and foremost, only 6% of the 4-year college students in the U.S. play varsity anything--from football to water polo to golf. 94% don't. Among Blacks, the percentage of varsity athletes appears to be around 9%. That means that 91% of the black students in 4-year colleges in this country are not varsity athletes. Among other minority college students, the ratio of varsity athletes to everyone else is rather low. And if we limit the universe of varsity athletes to the only ones we seem to talk about--namely male football and basketball players--we are looking at less than 3% of four-year college students in the U.S., and maybe 5% of the black college students.

That is a very small percentage of people. It is a very small tail to wag the huge dog of higher education in the U.S. And given the built-in privileges of being a talented athlete, the safety net, it is inequitable to spend inordinate amounts of time and attention worrying about varsity athletes when the fates of so many other people are at stake.

As someone who has studied college students and varsity athletes, I must be far more concerned with the 94% who are not varsity athletes, the 97% who are not varsity football or basketball players, the 91% of black college students who are not varsity athletes, and the 95% of black college students who are not varsity football or basketball players. From a national perspective, 95% is more important than 5%.

Second, we send the wrong message to young people, and to young black Americans in particular, by emphasizing varsity athletics in our discussions of higher education, by implying that the only measure of collegiate worth is whether you can put a ball through a hoop. Well, there are a lot of black Americans who can't put balls through hoops but who are worth a lot more both to the black community and to America as a whole than the folks who can. If our public ceremonies tell them that the only way they will "be somebody" in college--let alone afterwards--is to play varsity ball, they won't even make the effort to go to college. In fact, they will despair. They lose. Black Americans lose. The nation loses.

It is said that we must pay attention to black athletes because young black males, in particular, need role models, and that's what they're going to see on television. This is an odd economic notion: the idea that young people are likely to invest in themselves according to what they see succeed in the televised version of American society. And "success" means fame and fortune. But how many of us are famous? How many of us--any of us--make fortunes? Most of us, in fact, found out that we could succeed in ways other than fame or fortune. Most of us who study music, for example, came to realize that we weren't going to make it to Carnegie Hall or Blues Alley or the Regal (and if we made it to the Regal, it was amateur night and the clown took the microphone away after 12 bars), but that we had learned something from the serious, dedicated study of music that we could take into and apply in other aspects of our careers.

Kids learn. They know. Harry Edwards did an estimate a long time ago that bears updating with 1991 figures. If there are 32 million black people in the United States, about 8,000 of them earn their living, pay their bills, and raise their kids, working for performing athletics organizations. And of the 8,000, perhaps 1,000 are professional athletes. And of the 1,000, the majority do things like play 3rd base for the Durham Bulls for $15,000/season. Don't delude anyone into thinking that there's a big show here.

Third, the mission of college is education, not entertainment. We know there is learning and discipline in athletics--whether team or individual sports. We know that learning is valuable in the same way that we know the discipline and teamwork of playing in an orchestra or rock band or drama troupe or newspaper staff is valuable. But we also know that these activities--and their discipline and learnings--exist outside colleges and universities in ways that the study of organic chemistry or African history or cost accounting or the *symboliste* poets or communication disorders do not. Our institutions of higher learning were chartered principally and dominantly--though not exclusively--for the latter learnings, not the former. And if you look carefully at the charters of the Historically Black Colleges, to which young black Americans look for inspiration (even if they go somewhere else to college), you'll see the same message.

Fourth, we have learned from studying the careers of the High School Class of 1972 that earning a degree--Associate's or Bachelor's--is very important in terms of occupational choice, earnings, home ownership, and job stability. But we have also learned that (a) when you earn the degree, how long it takes, is less important than the *fact* that you earn it, and (b) that *what you study*, whether or not you earn a degree, may be the most important determinant of your future success in the labor market.

On the first issue here, we cannot impose on black students--let alone anybody else--the tyranny of time, the pressure to complete degrees according to our abstract notion of how long it should take. The NLS-72 transcripts teach us that people are more likely to complete degrees if we give them time; but they also teach us that the most critical period for black men, in particular, involves the first 10 credits. Get them over that hump, and they are more likely to persist. For black women, it's the last 30 credits that seem to be the critical ones. In working on black student retention over the years, I have found that the HBCUs understand this difference better than do other institutions.

The second issue here, what people study, is at the core of national economic development, as well as the future standard of living for black America. I find it curious--and disconcerting--that the Department of Education is rarely asked questions about the percentage of college students who study statistics or calculus, African history or East Asian politics, advanced level foreign language courses, engineering technologies or agricultural sciences. The NLS-72 college transcripts can answer those questions, and next year we will be able to answer them for the High School Class of 1982 as well.

If we take all the students who completed more than 10 college credits over 12 years, we know, for example, that 11% of the black students and 14% of the white students took statistics, and that 2% of the black students and 5% of the white students took advanced-level foreign language courses. These are two subjects that are critical to participation in a globalized workforce in a statistical century and an information age. Those numbers are not very impressive for anybody. But they raise the kind of issues that we ought to raise first with the HBCUs, not whether varsity football and basketball players are well cared for.

Fifth, indeed, to demonstrate the seriousness with which we take the HBCUs, we must start with their primary mission, and their role in national and regional economic development. If our workforce is not disposed to continuing education and training, then our national standard of living suffers. When workforces become globalized, when companies can hire the most talented and educated workers without regard to national boundaries, we will be left in the dust if we cannot offer first-rate computer programmers, first-rate production control managers, first-rate oil field technicians, first-rate teachers, first-rate translators. And if our standard of living declines because we are more concerned with varsity football players than with ordinary people, we know who will be hurt the most: the disadvantaged in our society, among whom black Americans are disproportionately represented.

To ensure that the HBCUs are at the center of higher education in the United States involves encouraging and reinforcing their role in creating and maintaining a "world class" workforce. Given the requirements of our economy for continuing education, those institutions that do not serve the recurrent education needs of adults in the workforce will be pushed to the margins of American higher education. We don't want that to happen to the HBCUs.

Both Secretary Alexander's plan for "AMERICA 2000" and the National Education Goals call for improved lifelong learning, call for a renewed effort in the continuing education of the American workforce. The Office of Educational Research and Improvement has begun the process of encouraging the participation of the HBCUs in this effort. We are asking questions about the guts of American education and about the larger body of students, ordinary and extraordinary, who attend--or might attend--those institutions. We are not asking questions about movie stars and varsity athletes. If I have learned anything from studying the history of the Class of 1972, it's that those people are at the periphery--and not the center--of our lives.

* * *

Addendum:

Goal 5 of the National Education Goals ("Adult Literacy and Lifelong Learning") states, as one of its objectives, that, by the year 200, "the proportion of those qualified students (especially minorities) who enter college, who complete at least two years, and who complete their degree programs will increase substantially."

While "qualified students" is not defined, we can use the NLS-72 postsecondary transcripts to figure out what "increase substantially" might mean. The transcripts give us the most accurate, long-term, base line data imaginable. The following tables replicate what the National Education Goals Panel had in mind when it set forth this objective. The universe of people here consists of everybody in the High School Class of 1972 who entered a 2-year or 4-year college, and who earned 60 or more credits (the equivalent of two academic years) by the time they were 30 years old. The objective does not refer specifically to Bachelor's degree attainment as an outcome, rather to "their degree programs." Hence, the table is presented in terms of highest degree earned by age 30:

	White/Asian	Black	Hispanic/AmerInd
No Degree	15.5%	29.8%	33.0%
Certificate/ License	2.1	2.5	1.6
Associate's Degree	13.6	10.9	20.1
Bachelor's Degree	56.3	45.4	37.1
Graduate Degree	12.5	11.4	8.2

Given the way the goal was stated, 67.4% of the students who met the conditions for being included in this universe earned at least a Bachelor's degree in 12 years, and another 13.6% earned the Associate's degree. And two-thirds of the black students in this universe completed "their degree programs." Given the way the goal was stated and the conditions for being included in the universe, the group to be targeted for meeting the goal consists of those who did not complete any degree. The NLS-72 archive can tell us a great deal about those people, and thus help us determine how to target our future efforts to assist them in completing degrees.

Mrs. COLLINS. Mr. Farrell.

STATEMENT OF CHARLES S. FARRELL

Mr. FARRELL. Chairwoman Collins, members of the subcommittee, my name is Charles Farrell, and I am the president of Sports Perspective International, an athletes advocacy organization that co-produces the annual Black Athletes in America Forum, and I am also the former special projects coordinator at the Center for the Study of Sport in Society at Northeastern University.

My co-producer, Dr. Lee McElroy, athletic director at California State University at Sacramento, is unable to be here today but asked me to extend his personal thanks to the subcommittee for convening these hearings.

As you well know, a number of factors have brought collegiate athletics, and the black student athlete in particular, under scrutiny.

My own concerns are deeply rooted in my background. My parents escaped Depression poverty through education, both receiving that education at historically black institutions. I followed in my father's footsteps, completing my undergraduate education at Lincoln University, the Nation's oldest historically black institution of higher education, and it was an education as sound as available anywhere in the country.

My career in journalism eventually led me to the Chronicle of Higher Education where I became part of the athletics section at a time when the ills of intercollegiate athletics were receiving massive exposure, and it almost always appeared that the majority of athletes caught up in the scandals were black.

Reform is certainly in the best interest of intercollegiate athletics, but it has not always been in the best interest of the black student athlete, who has emerged as the talent essential for successful college basketball and football, the prevalent revenue-producing sports. The majority of the football and basketball payers in Division I, the NCAA's top competitive division, are black, yet blacks receive only 10 percent of the athletic scholarships awarded in all sports in the division. In essence, it is the black athlete who provides the blood, sweat and tears that support college sports.

Yet it is the black athlete who too often fails to reap the rewards typically associated with college, an education and an academic degree. All too typically, it is the black athlete who exhausts his athletic eligibility before completing a college degree.

A recent NCAA survey of the graduation of black athletes was appalling. Of athletes who entered college in the 1984–1985 academic year, only 26.6 percent of the black athletes graduated, compared to 52.2 percent of the white athletes.

On an encouraging note, black athletes who attended black colleges appear to be graduating at significantly higher percentages than those black athletes who opt for predominantly white institutions. I say "appear" because the data is limited. But based on a survey conducted by USA Today strictly on basketball players in Division I, black athletes at black institutions fair better when it comes to graduation.

So why don't more black athletes, particularly those considered to be blue chippers, choose to go to black institutions? The answer is simple. The reason, real or imagined, is that black institutions are too often considered inferior when it comes to sports, despite rich traditions.

I have had the opportunity to speak with hundreds of high school athletes and most say that black institutions simply don't offer the facilities, don't play competitively enough, don't travel as fancy, don't get the radio and television exposure, don't attract the crowds, and don't attract the attention of professional teams.

You have to understand that most college football and basketball players believe they have a legitimate shot at playing professionally, and that belief is most pronounced in the black athlete. Only in the black community are sports such a dominant factor, perceived as a viable career alternative.

In a survey conducted last fall, 43 percent of black high school athletes said they expected to play professional sports, compared to 16 percent of white high school athletes. In reality, only one in 10,000 high school athletes ever makes it to the professional level.

This is a dangerous situation, because if black kids continue to believe that their best path for success is through sports, they are in for extreme disappointment. More frustrating is the fact that their belief in success through sports almost certainly leads them to neglect academics or to plan for other careers besides or beyond sports.

The promise sports offers for so many black youngsters is important because for some it is the only dream they are taught to pursue. But it has to be a dream that is rooted in sincerity and integrity and free of blatant exploitation. Colleges, and for that matter junior high and high schools, have to be held accountable for what they are doing, and right now, for the most part, high schools and colleges fall short of their responsibilities when it comes to the black athlete.

For 3 years now, Dr. McElroy and I have co-produced the Black Athletes in America Forum, held each April, to take an in-depth look at the myriad of issues that affect and envelop the black athlete at all levels. The Forums have examined academics and the black athlete, the black athlete and college, the black athlete and drugs, the black female athlete, the black professional athlete, life after sports, blacks in non-traditional sports, economics and the black athlete, black leadership in sports, and the role of the media.

And this past spring the Forum included a segment on the future of black college sports, because Dr. McElroy, myself and other members of the Forum committee believe that black colleges deserve to reap the rewards that intercollegiate athletics offers—prestige, visibility, and financial benefits—and these rewards are being systematically denied.

It wasn't that long ago, within the past two decades, that black students, not to mention black student athletes, were not welcome at institutions that now routinely start five blacks in basketball. But it is these same institutions that have failed to attract and retain black non-athletes, black faculty members, and black administrators in sports or elsewhere.

Another NCAA study a few years ago indicated that black athletes at predominantly white institutions express a deep sense of isolation, brought on in part by the lack of other blacks on many of these campuses, fostering an extreme lack of cultural identity.

On the contrary, black institutions have always provided the nurturing environment that has helped all students to succeed. Black institutions also have long known that many of their constituents have been ill-prepared for colleges, but instead of constantly blaming the high schools, those black institutions have instituted the steps necessary to prepare their students for college academics. As a result, black institutions continue to provide blacks with the majority of undergraduate degrees earned and prepare their students for graduate and professional schools.

So, in many cases, black institutions are in the best interest of the black athlete and could serve the black athlete best. Yet these institutions continue to be ignored by many black athletes who could benefit most.

What needs to be done? First, there must be a deliberate, conscientious, and meticulous effort to enhance the intercollegiate athletics program at black institutions in terms of facilities, competitiveness and visibility, making these institutions more attractive to black athletes in general.

Sports Perspectives International has launched an initiative to form an alliance of black institutions to work collectively to enhance the athletic programs at black institutions, but help must come on three other levels: the university level, the corporate level, and from the NCAA.

Black colleges need to build their alumni base of support, something easier said than done, but absolutely necessary. Boosters are the foundation of successful athletics programs, and black alumni must be in a position to demonstrate their economic power, to show major corporate sponsors the viability of this market. In term, major corporations must be generous to black institutions, particularly in light of evidence that black Americans hold increasingly substantial purchasing power. If corporations and advertisers can support other major college sporting events, they can support black college athletic programs also, or risk black consumer backlash.

Mrs. COLLINS. Excuse me. Let me interrupt you at this time.

Mr. FARRELL. Yes.

Mrs. COLLINS. Because you are reading from your statement. Your time has expired, but your full statement is going to be made a part of the record.

Mr. FARRELL. OK.

[The prepared statement of Mr. Farrell follows:]

TESTIMONY OF CHARLES S. FARRELL
PRESIDENT OF SPORTS PERSPECTIVES INTERNATIONAL
BEFORE THE HOUSE SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION AND COMPETITIVENESS
SEPTEMBER 12, 1991

Chairwoman Collins, members of the subcommittee, my name is Charles Farrell, president of Sports Perspectives International, an athletes advocacy organization that co-produces the annual Black Athletes in America Forum, and I am also former special projects coordinator at the Center for the Study of Sport in Society at Northeastern University. The Forum has been held every April for the past three years as a platform from which to identify the attributes crucial to black student athletes' educational attainment, promote personal responsibility and self-esteem among black student athletes, foster bold leadership initiatives, mandate an agenda for immediate reform within the college athletic structure and reinforce the balance of perspective among social, psychological, economic, athletic and academic components.

My co-producer, Dr. Lee A. McElroy, athletic director at California State University at Sacramento and former athletic director at the University of the District of Columbia, is unable to be here today but asked me to extend his personal thanks to the subcommittee for convening this series of hearings which he and I wholeheartedly support as one of the elements necessary to build model collegiate athletic programs and end the exploitation of college athletes, particularly black athletes.

Lee has not only been one of the most knowledgeable and outspoken contributors to the development of a better future for college sports, he has been a valued and trusted friend and I miss him not being here today.

As you well know, a number of factors have brought collegiate athletics and the black student athlete in particular under scrutiny.

My own concerns are deeply rooted in my background. My parents escaped Depression poverty through education, both receiving that education at historically black institutions. I followed in my father's footsteps, completing my undergraduate education at Lincoln University, the nation's oldest historically black institution of higher education and it was an education as sound as available anywhere in the country.

My career in journalism eventually led me to the Chronicle of Higher Education where I soon became part of its fledging Athletics section, at a time when the ills of intercollegiate athletics were receiving massive exposure.

There were numerous accounts of academic fraud, from grade changing, to taking phantom courses, to having a stand-in take tests. Recruiting scandals were rampant, with schools paying thousands of dollars for the services of a talented athlete, or making sure the recruit was outfitted with the latest wardrobe or drove a fancy car.

And almost always it appeared that the majority of athletes caught up in the scandals were black.

The scandals reached such proportion that 78 percent of college presidents surveyed believed that intercollegiate athletics interfered with the educational missions of their institutions and 70 percent of the American public believed that college sports was out of control. The response was to launch a massive reform movement.

Reform is certainly in the best interest of intercollegiate sports, but it has not always been in the best interest of the black student athlete, who has emerged as the talent essential for successful college basketball and football, the prevalent revenue-producing sports. The majority of the football and basketball players in Division I, the NCAA's top competitive division, are black, yet blacks receive only 10 percent of the athletic scholarships awarded in all sports in the division. In essence, it is the black athlete who provides the blood, sweat and tears that support college sports.

Yet it is the black athlete who too often fails to reap the rewards typically associated with college - an education and an academic degree. All too typically, it is the black athlete who exhausts his athletic eligibility before completing a college degree.

A recent NCAA review of the graduation rates of black athletes was appalling. Of athletes who entered college in the 1984-85 academic year, only 26.6 percent of black athletes graduated after five years, compared to 52.2 percent of white athletes.

On an encouraging note, black athletes who attend black colleges appear to be graduating at significantly higher percentages than those black athletes who opt for predominantly white institutions. I say appear, because the data is limited, but, based on a survey conducted by USA Today strictly on basketball players in Division I, black athletes at black institutions fare better when it came to graduation.

So why don't more black athletes, particularly those considered to be blue chippers, chose to go to black institutions? The answer is simple. The reason, real or imagined, is that black institutions are too often considered inferior when it comes to sports, despite rich traditions in sports.

I have had the opportunity to talk with hundreds of high school athletes and most say black institutions don't offer the facilities, don't play competitively enough, don't travel as fancy, don't get the radio and television exposure, don't attract the crowds, and don't attract the attention of professional teams.

You have to understand that most college football and basketball players believe they have a legitimate shot at playing professionally, and that belief is most manifest in the black athlete. Only in the black community are sports such a dominant factor, perceived as a viable career alternative.

In a survey conducted last fall, 43 percent of black high school athletes said they expected to play professional sports, compared to 16 percent of white high school athletes. In reality, only one in 10,000 high school athletes ever makes it to the professional level.

This is a dangerous situation, because if black kids continue to believe that their best path for success is through sports they are in for extreme disappointment. More frustrating is the fact that their belief in success through sports almost certainly leads them to neglect academics and to plan for other careers besides or beyond sports.

Frustration is one of the unyielding torments of black youth today. And it was out of frustration that the Black Athletes in America Forum was born.

Proposition 48, the controversial NCAA rule for initial eligibility, created its own level of frustration when conceived in 1982 by two groups of college educational and athletic administrators intent on academic reform.

The first group consisted of athletic administrators, the second, an ad hoc committee established by the American Council on Education; neither group had any black representation.

Proposition 48 was adopted by the NCAA in January 1983 despite protest from critics, particularly athletic and academic administrators at black institutions, who said the standards, a minimum 2.0 grade-point average in a college prep curriculum and a 700 SAT (15 ACT), would have a disproportionate effect on blacks, who tend not to do as well on standardized test as their white counterparts. And the adoption came despite an NCAA survey that showed that the majority of black athletes who previously had not met Proposition 48 standards had completed college degrees.

In the first year of Proposition 48's adoption, 85 percent of those athletes who fell short of the standards were black. That percentage has been dropping since 1986, demonstrating that black athletes have risen to the challenge to meet the standards.

But in January 1989 at the NCAA annual convention, another curve was thrown with the adoption of Proposition 42, which would ban colleges from providing financial aid to freshmen athletes who did not meet the minimum academic standards set forth by Proposition 48. Proposition 42 was passed over the objections of those earlier critics who again argued that since black athletes were more likely to fall victim to the minimum academic standards, they would be more likely to be denied the financial aid that would allow them to attend college. Again, those at the forefront of the battle for the rights of black athletes were the administrators of black institutions who have always known how critical education is to the black race.

It took a courageous stand by Georgetown University basketball coach John Thompson to bring national attention to the frustrating dilemma Proposition 42 presented. How do you tell kids they must be academically prepared for college, yet deny them what could possibly be their only chance for a college education, an athletic scholarship, knowing that high schools are unable or unwilling to provide the type of education to prepare the underprivileged in this country for college.

Frustration. In this country today, there are 610,000 black males between the ages of 20 and 29 caught up in the criminal justice system - either in jail, probation or parole. Contrast that with the fact that there are only 435,000 black males of all ages in college.

Add to that the mayhem in the streets of our nation's cities as murder has become the leading cause of death among young black males. Put quite simply, the black male has become an endangered species.

In one of the apartments I used to live in in Washington, I could literally look out of my window and see drug transactions taking place as 14, 15 and 16-year-old babies hustled their illegal pharmaceuticals.

Their dress of choice - they were decked out in sports wear by adidas, Nike, Converse and Reebok. Their hats and shirts bore the legends of Terrapins, Hoyas, Wolfpack and Wildcats, or Pistons, Redskins or Raiders. In Boston, where I spent the past two years, wearing the logo of certain sports teams or a certain brand of sneaker identifies one as a member of a particular gang.

I remember thinking on numerous occasions, and with particular frustration given the precarious existence of black youth today, that these kids will never get any closer to Maryland, Georgetown, North Carolina State or Villanova - would never play for the Pistons, Redskins or Raiders. Yet the influence of sports was so real, so evident. Unfortunately, these kids succumbed to the empty promise of drugs.

But there is another promise always dangled before black youths in this country and that is the promise of sports, the promise of success through sports even though the reality is that a black man stands a better chance of becoming a doctor or lawyer than becoming a professional athlete.

Yet black youths continue to pursue the long shot of athletics, continue to chase the elusive brass ring to all too frequently discover too late the broken promise of sports. They discover they have no career as athletes and most have no college education to rely on for the future.

I think we all have to keep sports in perspective. Sports are but a microcosm of society, no better and no worse. The problems that manifest themselves in society, and particularly those overwhelming the black community - drugs, undereducation, lack of job opportunities, exploitation - are also problems that must be faced in the world of athletics.

They are problems of race and they are problems that need to be discussed openly and honestly because they are not simply going to disappear. They do persist and they are a plague on our society, a plague that unless addressed will continue to ravage the black community at a time when America can ill afford to lose the potential contributions of that community.

We must be able to compete with the rest of the world in all phases and the black community has to be part of that competition.

The promise sports offer for so many black youngsters is important because for some it is the only dream they are taught to pursue. But it must be a dream rooted in sincerity and integrity and free of blatant exploitation. Colleges, and for that matter junior high and high schools, have to be held accountable for what they are doing, and right now, for the most part, high schools and colleges fall short of their responsibilities when it comes to the black athlete.

For three years now, Dr. McElroy and I have co-produced the Black Athletes in America Forum, held each April to take an in-depth look at the myriad of issues that affect and envelop the black athlete, at all levels.

The Forums have examined academics and the black athlete, the black athlete and college, the black athlete and drugs, the black female athlete, the professional black athlete, life after sports, blacks in non-traditional sports, economics and the black athlete, black leadership in sports, and the role of the media.

At the 1990 Forum an initiative to combat racism through sports was announced.

And this past spring the Forum included a segment on the future of black college sports, because Dr. McElroy, myself and other members of the Forum committee believe that black colleges deserve to reap the rewards that intercollegiate athletics offers - prestige, visibility, and financial benefits - and those rewards are being systematically denied.

It wasn't that long ago - within the past two decades - that blacks students, not to mention black student athletes, were not welcome at institutions that now routinely start five blacks in basketball. But it is these same institutions that have failed to attract and retain black non-athletes, black faculty members, and black administrators in sports or elsewhere.

Another NCAA study a few years ago indicated that black athletes at predominantly white institutions express a deep sense of isolation, brought on in part by the lack of blacks on many of these campuses, fostering an extreme lack of cultural identity.

On the contrary, black institutions have always provided the nurturing environment that has helped their students to succeed; black institutions also have long known that many of their constituents have been ill-prepared for college, but instead of constantly blaming the high schools, those black institutions have instituted the steps necessary to prepare their students for college academics. As a result, black institutions continue to provide blacks with the majority of undergraduate degrees earned and prepare their students for graduate and professional schools.

So, in many cases, black institutions are in the best interest of the black athlete and could serve the black athlete best. Yet these institutions continue to be ignored by many black athletes who could benefit most. What needs to be done?

First, there must be a deliberate, conscientious, and meticulous effort to enhance the intercollegiate athletics programs at black institutions, in terms of facilities, competitiveness and visibility, making these institutions more attractive to black athletes in general.

Sports Perspectives International has launched an initiative to form an alliance of black institutions to work collectively to enhance the athletics programs at black insitutions, but help must come on at least three levels - the university, the corporate and from the NCAA.

Black colleges need to build their alumni base of support, something easier said than done, but absolutely necessary. Boosters are the foundation of successful athletics programs, and black alumni must be in a position to demonstate their economic power to show major corporate sponsors the viability of this market.

In turn, major corporations must be more generous to black institutions, particularly in light of evidence that black Americans hold increasingly substantial purchasing power. If corporations and advertisers can support other major college sporting events, they can support black college athletics programs also, or risk black consumer backlash. Pressure can and should be brought to bear.

And the NCAA needs to support its black brethren more. In years past, the NCAA insisted that television broadcast black college sporting events; those demands fell by the wayside following the 1984 Supreme Court decision that ended the association's lock on televised college sports.

But if the NCAA's $1 billion contract with CBS mandates that the network televise women's basketball, gymnastics and swimming, it could and should include provisions for black college sports, particularly those at the black institutions that compete in Division I.

There are 17 such institutions; the Mid-Eastern Athletic Conference, whose commissioner, Ken Free, is here today, comprised of Bethune-Cookman College, Coppin State College, Delaware State College, Florida A&M University, Howard University, University of Maryland, Eastern Shore, Morgan State University, North Carolina A&T State University, and South Carolina State College; and the Southwestern Athletic Conference, comprised of Alabama State University, Alcorn State University, Grambling State University, Mississippi Valley State University, Prairie View A&M University, Southern University and Texas Southern University.

It certainly would not be out of line to mandate that a network televise the championship games of these conferences as well as select rivalries between these schools.

Once these and other black institutions receive the kind of enhancement they deserve, Dr. McElroy and I believe that they will be able to compete for the talents of black athletes on a more even keel, forcing predominantly white institutions to take measures that will provide black athletes with the kind of social and academic support that will make the college environment and experience more positive. That will benefit all black student athletes at all institutions.

Academic and athletics administrators at black institutions also need to be a crucial part of the decision-making process in regards to future reform, particularly on issues sure to have an effect on the black athlete. These administrators have had a longer history on how to help black students and black athletes and their imput is critical if there is a true intent to address the special concerns of the black athlete.

Dr. McElroy and I also feel it is crucial to make public the worst offenders when it comes to the academic and social needs of black athletes. That public list should not only take into account low graduation rates for black athletes, but also high numbers of campus racial incidents, low numbers of black non-athletes, low numbers of black faculty and staff, low numbers of black administrators, and information on the quality of campus life for black students. If nothing else, basic consumer information would be available and it would be hoped that black athletes could be convinced to boycott those institutions with the worse records for exploitation.

The Black Athletes Forum also recommends the development of an equitable system for assessing punitive damages on those exploitive institutions, further forcing them to provide a more supportive environment for the black athlete.

A couple of other suggestions coming out of the Forums for general reform in intercollegiate athletics that would also have a positive benefit to black athletes specifically include mandatory instruction at the high school level for athletes in time management, study habits, SAT preparation, career development, NCAA rules and regulations, and moral and ethical responsibility. Some of that instruction should be extended to parents of athletes who too often are poorly informed about the system their children are involved in.

College athletes should also be required to take some of the same instruction and athletes at both levels should also be required to perform some kind of mandatory community service.

Community service would give an athlete a sense of values beyond the playing field, values that may help them in developing the total person, one who can understand the need to balance academics with athletics. It would also help develop self-esteem and leadership qualities in the athlete and as leaders in the community these athletes can enhance their positive role model status.

And all intercollegiate athletics programs, at all institutions, black or white, need to undergo a process of accreditation by an independent organization to assure that institutions are doing all they can in support of student athletes, regardless of race or sex.

In conclusion, Dr. McElroy and I want to say that it has been our experience that the problems of college sports tend to manifest themselves upon the black athlete, who has placed too much of his faith on success simply though sports. That has made the black athlete extremely vulnerable and efforts must be made to have black youth face the truth about sports. Efforts also need to be made to ensure that black athletes aren't exploited for their talents, but receive something in return - an education.

Black institutions have long been fulfilling that promise of an education; they deserve to fulfil their athletics potential.

Dr. McElroy and I thank you for your time and consideration. We feel that the efforts of this subcommittee are extremely important for the future of intercollegiate athletics and at this time would like to invite Chairwoman Collins and other subcommittee members to participate in the 4th Annual Black Athletes in America Forum, to be held next April 10 and 11, and share with a national audience the development of the subcommittee's work and some recommendations for the future.

Again, our sincere thanks.

Mrs. COLLINS. Now, I want to go now to Mr. Pace.

STATEMENT OF ANTHONY PACE

Mr. PACE. Madam Chairwoman, thank you and the members of this committee for allowing me to testify today. My name is Anthony Pace. I am the Executive Director of the Renaissance Foundation here in the District of Columbia. To my right is Mr. Albert Mitchell, who is our business director.

The Renaissance Foundation is a group founded by three alumni of Historically Black Colleges, which we refer to as HBCU's in the future, who had a vested interest in the future of our black college students. We operate on three fronts: (1) that we promote entrepreneurship among black people, particularly our black college graduates; (2) we would like to provide scholarships to students to attend the Historically Black Colleges; and (3) we would like to use athletic programs to raise the visibility for the black colleges.

Our purpose here is to attempt to shed some light on the problems the Historically Black Colleges, or HBCU's, face in the athletic arena. The problems that HBCU's face are problems that all small colleges face. Some of these problems are societal in nature and are difficult to overcome. Other problems are inherent to the NCAA structure, which has created Divisions I, IAA in football, Divisions II, and Division III. Only in basketball is there any HBCU involvement on the Division I level.

From our point of view the most glaring problems are the lack of opportunities for HBCU's to participate in post-season competition, the issue of fairness for the teams that are selected in post-season competition, the lack of television revenues available to the HBCU's, and the lack of participation of HBCU coaches and players in the coaches associations and the post-season all-star games.

In the area of post-season play, annually one can expect to see two to five HBCU's participating in NCAA post-season football playoffs and from three to six in basketball playoffs. These numbers cross all the divisions I mentioned earlier and is inclusive of the National Association of Intercollegiate Athletics, and this situation is really magnified in football.

The situation is only slightly better in basketball. More teams usually get involved, but more teams are involved in the basketball playoffs overall. So the percentage of HBCU's that actually participate in basketball playoffs usually is lower than the percentage of football playoff participants. The teams that do make it into the basketball playoffs a lot of times play under some unusual circumstances.

The big problem that all of the small colleges face is the lack of television exposure and revenues available to them. For the first time in many years a major network will televise an HBCU football game. The Bayou Classic held annually in New Orleans will be televised nationally the next 3 years. While this is progress, this game involves the same two schools every year in the same conference. Therefore, the main body of HBCU's still get left out of the major network picture.

The HBCU's badly need television income to augment their limited and strained resources. There is one HBCU that has a total football budget of $75,000 and the coaches have to be paid out of that sum. Many schools have recruiting budgets larger than that.

One of the other problems is that many HBCU coaches feel left out of some of the perks that are awarded to the other coaches. For example, you rarely, if ever, see HBCU coaches working in post-season all-start game, even as assistant coaches. There is usually little, if any, HBCU coach representation in the basketball coaches associations or the football coaches associations. These coaches are rarely invited to speak at NCAA convention or coaches meetings. In addition to this, it is rare that one will see an athlete from an HBCU participating in the above-mentioned all-star games.

The most obvious negative effect comes in the area of recruiting. Most HBCU coaches find themselves going through the ordeal of having black, so-called "blue chip" high school athletes shunning them without hesitation. These kids already have their minds set on attending a so-called major college to participate in their particular sport. These schools take up to about half of the black athletes available of a senior class. Then the predominately white small schools take up half of what is left from that, and it is almost—it is just very difficult for an HBCU to attract a quality white student to their institution.

In regard to the NCAA structure, many HBCU officials feel that the NCAA has been structured to keep small colleges in general and HBCU's in particular from becoming Division I and reaping the economic rewards that go along with that status.

We would like to suggest several things to take place in order to help resolve this problem.

Number 1. We would like for the NCAA to sanction an HBCU football championship playoff beginning in 1992, with an outside organization overseeing this event.

Number 2. We would like for the NCAA to negotiate more television exposure for the black colleges in football and basketball, and then have a more equitable distribution of the television revenues.

Number 3. Finally, we would like to see the rule that will require Division I schools to have 100 percent Division I schedules and allow for an exemption for the Historically Black Colleges or any other small schools that can prove a traditional rivalry with another small college.

Mrs. COLLINS. Thank you very much.

[The prepared statement of Mr. Pace follows:]

STATEMENT OF ANTHONY PACE, EXECUTIVE DIRECTOR, THE RENAISSANCE FOUNDATION

Madam Chairperson, thank you and the members of the committee for allowing me to testify today. My name is Anthony Pace, and I am the Co-Founder and Executive Director of The Renaissance Foundation here in the District of Columbia.

Our purpose here is to attempt to shed some light on the problems the Historically Black Colleges and Universities (HBCU's) face in the athletic arena. The problems that HBCU's face in athletics are part of the problems that all small college programs face. Some of these problems are societal in nature and are difficult to overcome. Other problems are inherent to the NCAA structure, which has created Divisions I, I-AA (football only), II, and III. Only in basketball is there in any HBCU involvement on the Division I level, with the Southwestern Athletic and MidEastern Athletic conferences participating.

From our point of view the most glaring problems are, in no particular order: the lack of opportunities for HBCU's to participate in post-season competition, the issue of fairness for the teams that are selected to participate in post-season competition, the lack of television exposure and revenues available to HBCU's, and the lack of participation of HBCU coaches and players in the Coaches associations and post season all-star games.

In the area of post-season play, annually one can expect to see two (2) to five (5) HBCU's participating in NCAA post-season football playoffs, and from three (3) to six (6) in the NCAA basketball playoffs. These numbers cross all divisions, and is inclusive of the National Association of Intercollegiate Athletics (NAIA). This situation is really magnified in football.

The situation is only slightly better in basketball. More teams usually get involved, but more teams are involved in basketball playoffs overall. So the percentage of HBCU's participating in post-season basketball is usually smaller than the percentage of post-season football participants. The teams that do make it in basketball face some unusual circumstances.

The big problem all small colleges face is the lack of television exposure and revenues available to them. For the first time in many years a major network will televise an HBCU football game. The "Bayou Classic" held annually in New Orleans will be televised nationally the next 3 years. While this is progress, this game always involves the same two schools within the same conference. Therefore the main body of HBCU's still get left out of the major network picture.

With cable network, and some limited syndicated television, HBCU's get a very small amount of exposure and revenue. When the rare offer to televise a HBCU contest comes from a major network, the network sometimes offer unreasonable packages. Often times HBCU's are overlooked by television because of the small arenas that most of them play in. If one observes closely, there are many many major college games televised from small arenas. Those schools and HBCU's often have the option of moving their games to larger nearby arenas. There is one major college that until recently traveled thirty (30) miles to play its home games.

HBCU's badly need television income to augment their limited and strained resources. There is one HBCU that has a total football budget of $75,000, and coaches have to paid out of that sum. Many schools have recruiting budgets larger than that.

One other problem is that many HBCU coaches feel left out of some of the perks that are awarded to other coaches. For example, you rarely, if ever see HBCU coaches working the post-season allstar games, even as assistant coaches. There is usually little, if any HBCU coach representation in the National Association of Football Coaches, or the National Association of Basketball Coaches. There are rarely any HBCU coaches invited to speak at NCAA conventions or Coaches meetings. In addition to this it is rare that one will see an athlete from an HBCU participating in the above mentioned all-star games.

The overall effect these problems have on HBCU sports is generally a negative one. Again some of these problems are societal. Others are inherent to the NCAA structure, and others inherent to being an HBCU.

The most obvious negative effect comes in the area of recruiting. Most HBCU coaches find themselves going through the ordeal of having the black "blue-chip" high school athletes shunning them without hesitation. These kids already have their minds set on attending a "major-college" to participate in their particular sport. These schools take up to half of the black athletes. Predominately white small colleges take up half of what is left over from there. And it very difficult to attract a quality white player to a HBCU. There are a few sprinkled about on football teams, but they are few and far between.

In regard to the NCAA structure, many HBCU officials feel that the NCAA has been structured to keep small colleges in general and HBCU's in particular from becoming Division I, and reaping the economic rewards that go along with that status.

Lack of money seems to be at the root of the problems that HBCU's face. We would like to suggest that several things take place in order to help resolve this problem.

Number 1. We would like for the NCAA to allow the HBCU's to form their own national championship playoff in football beginning in 1992, with our organization or some outside organization overseeing the event.

Number 2. We would like the NCAA to negotiate more television exposure for the HBCU's in football and basketball, and a more equitable sharing of NCAA television revenues.

Number 3. We would like to see the NCAA Division I basketball committee abolish the play-in system.

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Number 4. Finally, we would like to see the rule that requires Division I schools to have 100 percent Division I schedules allow for an exemption for the HBCU's or any other small schools that can prove a traditional rivalry with a small college.

Mrs. Collins. Coach Gaines, I am going to ask you to come back to the table, please. I didn't get a chance to ask you a question that I did have in mind, and I was glad that you were still here. And that is, that we hear so much talk about students in the Historically Black Colleges never getting the opportunity to be selected by the pros. Do pros ever come to Winston-Salem State looking for athletes—the pro recruiters?

Mr. Gaines. They certainly do.

Mrs. Collins. Will you put the microphone a little bit closer, please?

Mr. Gaines. Yes, they do. I have a son who is an assistant to Jerry Crosson who is a scout. I think all of our conference tournaments were adequately covered by scouts. Last year, I was the president of the National Association of Basketball Coaches. Through the special or the extra events committee—the NCAA has a representative here today, Dave Kaywood—the four predominately black conferences are in the process now of putting together a post-season tournament for our seniors. At the present time, at the end of the season the two tournaments that we don't get exposure in, one is the Portsmouth Invitational, the second one is the Orlando, or the Florida Classic. Then the NCAA has a playoff, or I don't know whether it is the NCAA. I think the pros have a Chicago tryout camp. So what we will do this year with the approval of the NCAA is in Winston-Salem, North Carolina, I think it is April 13th through 15th, trying to find all the eligible seniors that will come to that site, and we have been given assurance from the NBA that their general managers and all their scouts will be there.

But all of the tournaments last year were covered by those scouts. What we really suffer more than anything else is we are starting behind the line of scrimmage. In other words, actually these top 200 kids I said that does not attend any of the predominately black institutions, these kids are traced from high school through college by professional athletics. Let me give you two examples.

Had I not been the coach of a team that went to the Aloha Classic, Charles Oakley would never have been able to go there, because they questioned the quality of his play. I was also the coach of a team that I took to China, and a kid down at Virginia Union, A.J. English, he would not have been able to go had I not insisted, since I was the coach, that he go.

Now, one of the ways that predominantly black institutions and the coaches are going to have to attack this thing is become more and more involved in coaches associations. Get involved so that you are on the spot. See, in a lot of cases the mere black presence there makes the Caucasian majority alter their recommendations and that sort of thing. Because we don't get the same type of exposure through the newspaper that the rest of these kids.

And you can trace A.J. English, I think he plays with the—he is still with the Bullets, down to Virginia Union and that sort of thing. There are some kids that we hope that will be overlooked—that have been overlooked that they will discover a diamond in the rough. See, the most hated person on a college campus after the draft, I know at the small colleges, is the black basketball coach. Because, Coach, you didn't see to it that I got my shot. Now, he might not be able to play diddly, piddlywinks, but everybody has a dream that they would like to participate in professional basketball and everything. We are trying to provide for them, and with the NCAA approval, and this is an officially approved game.

See, a lot of times these kids have been—I will give you another example—I can talk all day. But they had a black college all-star game that was not sanctioned. They must have had 60 or 70 kids down there. And they did not provide the amenities that go along with the type of participation that Ken referred to; in other words, first-class travel, to be sure these youngsters are insured, to be sure that they get back home safely, and that sort of thing, and this is what the four predominantly black conferences are going to go into this April.

We are making some progress, but now we just need some more help. In other words, and I referred to it in my notes, this kind of levels the field in some way. We are down in the valley right now and we are just trying to get on top of the hill.

Mrs. COLLINS. My time has expired almost. So I have one more question, and that is I am concerned—well, don't leave the table, please, Coach. Your time isn't up yet.

I am concerned—and I want anybody at the table to answer this question, and it is something I alluded to in my opening statement. I am concerned about students like Robert Smith. Now, all of us know about his case. He is the young man who was a tailback at Ohio State. And he said that he questioned the importance of playing football because he wanted to get on with his academic studies and his time practicing ran into that time, so he decided just to quit. And his coach and others said that, well, you know, they were sorry to see him go but that they felt that he was making a mountain out of molehill, and what have you.

I would like for all of you to answer that kind of question. What do you think about a young man, who I agree with, of course—let me say that—who puts his education before playing football and what have you? But isn't this a rather scathing indictment of coaches and the universities, and what have you, who have these student athletes, who insist that they are on the playing field 80 percent of their time and taking, as you say, garbage courses?

Dr. Adelman, why don't we start with you and go down the line?

Mr. GAINES. Let's look at it. That is just one coach. You can't condemn all coaches. For example——

Mrs. COLLINS. No, I don't do that.

Mr. GAINES. Well, to be in compliance now you are limited to 20 hours of exposure, 20 hours per week, and you must have one day off. And frankly, with all the experiences I have had, I never had that much to talk about in these sessions where you kept them all night drawing X's and O's and that sort of thing.

I think this was just a rare case. If the institutions are in compliance, or they follow the rule, no more than 20 hours of practice in football, basketball, or anything else, that is just it. That is just a bad situation with that young man, and I just hope that it just doesn't put a black mark on all of college athletics because he took that stand. You don't know what type of personality conflicts these kids have.

Mrs. **Collins**. That is certainly true. Thank you.

Mr. Farrell.

Mr. **Farrell**. I think that, unfortunately, there are other Robert Smiths out there who for one reason or another don't speak up or are afraid to speak up. These kids are going to these schools essentially to play football or essentially to play basketball. That is why they have been recruited to come to the individual institutions.

Coach Gaines mentioned the 20-hour-a-week rule. That is for mandatory sports involvement, which means that if a kid wants to spend an additional 20 hours a week in a weight room or participating or working out, they can. And there is a fear that, risking the wrath of a coach or being demoted to a second team or a third team, that these kids will indeed ignore their studies even though they have been provided this additional time.

So, again, I do think there are other Robert Smiths out there that just haven't spoken up.

Mrs. **Collins**. Mr. Pace?

Mr. **Pace**. Yes. I tend to agree with me Mr. Farrell. I think the problem is more magnified on the Division I level. Because of the high visibility of these schools, the pressure is more on those coaches to win.

My own personal situation could probably shed some light on it. I am an alumnus of Winston-Salem State. I was a baseball player there. And one of the things that happened when I first came out for baseball was the coach insisted, where's your grade report? He insisted on it.

Mrs. **Collins**. Good.

Mr. **Pace**. And he followed us all year long, the whole season. The baseball coach then was almost as big as Coach Gaines, so we weren't going to cross him. His insistence was that we study, get our books first and play baseball second, because he was not under the pressure to produce future Major Leaguers.

But I think the big college programs, those coaches feel a lot of that pressure. And I agree, there is probably some other Robert Smiths out there who just haven't spoken up.

Mrs. **Collins**. Mr. Adelman.

Mr. **Adelman**. We are all agreeing with each other. Let me add to it. It is the minimum of 20 hours. It adds 10 hours of jogging, bodybuilding, et cetera, for which you can take courses and get credit while you are at it. It is travel, which is another 10 or 20 hours. And the games themselves. And by the time you add it up the kid is working a 60-hour week. When are they going to study? And, if they come around to figuring out that they would like to participate in the global economy, they are never going to get there with a 60-hour-a-week sports job. So I would double Robert Smith's scholarship for standing up for academics tomorrow.

Mrs. **Collins**. Mr. McMillen.

Mr. **McMillen**. Thank you, Madam Chair. We have a vote.

Mr. Adelman, in listening to your testimony I was trying to discern some of the differences between your conclusions and some of the General Accounting Offices' conclusions, and one of the areas that I didn't think that you differentiated, which the GAO study did, was in the revenue-producing sports.

Mr. ADELMAN. Yes, I did. I am referring specifically to football and basketball. I separated out everything else and I call them minor sports.

Mr. MCMILLEN. In your view, what was the problem with the GAO's methodology?

Mr. ADELMAN. I don't have a problem with it. Oh. In terms of—all right, here are the differences.

Mr. MCMILLEN. They came to a different conclusion.

Mr. ADELMAN. The differences between the studies—first, I give people, the Department of Education in its longitudinal studies gives people 12 years to finish college, and that is very important, and very important when you look at the ways in which black students in general, if you are talking black students' graduation rates, go through college in this country. They tend to delay entry to college and therefore it is going to take them longer. Do we care more about how long it takes or the fact that people earn degrees?

Mr. MCMILLEN. Well, let me ask a question.

Mr. ADELMAN. If you wind up with a high percentage of people earning degrees, I don't care how long it takes them.

Mr. MCMILLEN. How long does it take a black athlete to finish a degree as opposed to a black non-athlete? What were the averages?

Mr. ADELMAN. I would tend to say that the black—my guess would be—I would have to double check; it is a good question, and I could hit the data on it—that the black athlete takes about a year longer than the black non-athlete to finish. That is a guess, but I could run some data for you on that.

Mr. MCMILLEN. Anecdotally, I know many, many athletes who I have seen who have had to suddenly wake up and realize that it is very, very difficult for them to survive in this modern world without a degree, and so they have been forced to go back.

But one of the things that I think your study, I mean your conclusions really omit is that, you know, you somehow—I mean you make some comments like it is a small tail, this athletic issue, to wag the huge dog of higher education in the United States. I mean what is happening—let me give you a pinpoint exactly what is happening and where the rubber meets the road on college campuses. And, if that hadn't been sanctioned by the NCAA, they would have had problems.

I go out and I talk to high school kids. Kids, for instance, don't want to go to the University of Maryland because Maryland has been scandalized by its sports problem. So what happens is those kids say, "No, I don't want to go to the University of Maryland." So, in essence, that asset the State has invested in, the Federal Government has invested in is being depreciated by the fact that the computer science program is not on the front pages, its outstanding astronomy program is not on the front pages. Its athletic program that has been scandalized is on the front page, and that is why kids aren't going to school.

Now, what your study completely omits is how much economic damage that is causing to this country. We are investing $25 billion a year in higher education in this country. I have no idea what that is being depreciated by, by these kinds of examples occurring in our—half the Division I schools are sanctioned.

Mr. **Adelman**. I am trying to follow what you just said, and I, frankly, am having some difficulty with it. Because if a kid is not going to the University of Maryland because of X, the student could be going to another school.

Mr. **McMillen**. That is right.

Mr. **Adelman**. All right? Which doesn't mean that the investment that we are making in that student is lost. It may mean that, as in Maryland, the school might lose a promising student.

Mr. **McMillen**. Yes, that is exactly right.

Mr. **Adelman**. But they may get them at another school.

Mr. **McMillen**. It means that a lot of institutions who are striving to be, you know, outstanding institutions, who are putting public investments in that, are finding their investment depreciated by, as you say, relatively de minimis issues. Well, they are not de minimis, they are very important. And you completely miss that when you say that this small tail is wagging this huge dog.

Mr. **Adelman**. OK, let's step back. I did not say that the institutions are not important. My point is this: If the first questions we ask about higher education are about varsity athletics, then a small tail is wagging a big dog.

Mr. **McMillen**. No one said that. First of all, no one said that. That was your conclusion. What my conclusion is, is that when athletic scandals are on the front pages of newspapers those universities are suffering. If you want to get anecdotal data, go out and talk to high schools and ask them.

In the State of Maryland, I consider it a blight on my State when my bright kids want to go out of State to school and they don't want to stay in State, and that is because of the fact that a kid might got a little bit extra money or some de minimis scandal, and relative to the public investment in that university.

Mr. **Adelman**. That is right. But you see how that is wagging a tail that it shouldn't wag?

Mr. **McMillen**. The point is that we have got to clean up the mess.

Mr. **Adelman**. Sure you do.

Mr. **McMillen**. And it seems to me that somehow in your argument you said this is not important, let's move on. I think that is not a fair characterization of the reason why we are having these hearings and why this Congress feels like this is important to higher education.

Mr. **Adelman**. Well, you and I have——

Mr. **McMillen**. Differences of opinion.

Mr. **Adelman**. May we agree to disagree on the magnitude of how important it really is?

Mr. **McMillen**. No, I just wanted to offer that because I do think it is—because the second question, actually I have to—I will go after I finish this.

The second suggestion——

Mrs. **Collins**. We are on the second set of bells, so I am going to leave now and he is going to continue his questioning.

Mr. **McMillen** [presiding]. I have got about 7 minutes.

But let me just say—do you think that there is nothing wrong with college sports and that reform efforts that we are doing, we are kind of wasting our time?

Mr. **Adelman**. No. I think there is a lot that is wrong with college sports. What I am trying to say in this whole proposition is that when we talk about this, first of all, let's use real data and not anecdotal rates, graduation rates of the UNLV men's basketball team. That is not typical nationally. You have got 10 million college students in 3,400 institutions out there. Let's talk about all of them, and not just try to isolate this thing with extreme cases.

Mr. **McMillen**. See, I think, you know, as they say, statistics can be handled in many, many different ways and misinterpreted.

Mr. **Adelman**. Sure it can.

Mr. **McMillen**. I mean, what the graduation rates do is to try and prod—it is just like the airline statistics; I mean, Pan Am may have a legitimate reason why they are flying late. But the fact is it does prod the institution. The much bigger issue is what we are failing to address here, and that is the fact that we have got this commercial juggernaut on your college campuses that is distorting the mission of higher education. That is the big issue. That is the big issue. Graduation rates are just a small part of that. And I do concur with you that you can read into them anything you want. But the big issue is we have got to get this thing back into the model of an educational institution, not a commercial enterprise.

Mr. **Adelman**. We agree 100 percent, which is why I want the first questions to be about education and not about athletics. That is what sends the right messages.

Mr. **McMillen**. Well, I feel terrible that I have to run here because I wanted to continue this engagement.

But you do think that reform is needed?

Mr. **Adelman**. Absolutely.

Mr. **McMillen**. You just felt that the statistics are misleading?

Mr. **Adelman**. Yes.

Mr. **McMillen**. I think that is a fair characterization.

Well, I think we will have to adjourn for a moment. I think we are going to have to adjourn the hearing because we are going to be on the floor for a while longer.

So we appreciate all of you coming here today. I apologize for this, but I think we are going to have several votes on the floor. But if you have any further comments we can include them in the record.

[Whereupon, at 3 p.m., the hearing was adjourned.]

[The following material was received for the record.]

"MODEST PROPOSAL" BY HENRY LOUIS GATES, JR., W.E.B. DUBOIS PROFESSOR OF HUMANITIES, HARVARD UNIVERSITY

Standing at the bar of the black VFW in Piedmont, West Virginia, I offered $5 to anyone who could tell me how many African-American professional athletes were at work today?

There are 35 million African-Americans, I said. "Ten million" yelled one intrepid soul, too far into his cups. "no way . . . more like 500,000," said another. "You mean all professional sports, including golf and tennis, but not counting the brothers from Puerto Rico?" Everyone laughed. "50,000 minimum." And so it went.

Facts: There are 1,200 black professional athletes in the United States, of a total of X athletes. There are ten times more black lawyers than black athletes. There are five times more black dentists than black athletes. There are tk times more black doctors than black athletes.

But nobody believed these statistics in my local VFW, and few would believe them if they weren't reading them in the pages of Sports Illustrated. And, despite these statistics, African American youth believe that they have a much better chance of becoming Magic Johnson or Michael Jordan than they do Kurt Schmoke or Dr. Benjamin Carson. Each evening as I drove through a black neighborhood in Durham on my way home, I couldn't help wondering what would happen if the kids dribbling their basketballs down the street spend as much time in the library as on the courts.

As a friend pointed out to me, an African American has as much chance of becoming a successful athlete as she or he does winning the lottery. The tragedy for our people, however, is that few of us realize it.

Let me confess at the start that I love sports, especially its ritual aspects. Like most black people my age, I was raised to revere the great black athletic heroes, and never tired of listening to the legendary tales of triumph and defeat that, taken together, amount to a collective black epic cycle akin to the Norse sagas or those of the ancient Greeks: Louis and Schmelling; Satchel Page's repertoire of pitches; Jesse Owens' in your face performance in Hitler's '36 Olympics; Willie May's over-the-head basket catch; Jackie Robinson's strength to endure the racist nickname, "Blackie"—these, and a thousand other tales comprise a collective African American narrative as grand as that of any mythic tradition. And when I "drop-in" on a tournament, or overhear Monday morning coaches analyze the weekend's events in ritual settings such as black barbershops, the telling of these legends—and the obvious importance they continue to bear within our culture—is a big part of my enjoyment of watching African Americans triumph in sports.

Nevertheless, the blind pursuit of attainment in sports is having a devastating effect on our people. Imbued with a belief that sports is our principal avenue to fame and profit—and, as importantly—nourished by a system of team competition that can corrupt even elementary students—far too many black kids treat basketball courts and baseball diamonds as if they were an alternative school system. "OK I flunked English. But I got an A+ in slam-dunking."

Mine is not the only hometown haunted by shadows of the would-be great athletes, whose lives peaked by the age of 18, and whose dreams are of adolescent glories of an evening on a football field, not dreams on which to sustain a meaningful future. "There goes Willy . . . he almost made the Big Leagues". What a guy.

The failure of the schools to educate our young athletes only makes visible the failure of our public schools to educate almost everyone. A recent survey of the Philadelphia school system, for example, reveals that "more than half of all students in the third, fifth and eighth grades cannot perform minimum math and language tasks", while one in four middle school students fails each year. Far too often, students with exceptional athletic promise are passed along year-to-year, for the greater glory of a school's basketball team. Functionally illiterate by the 6th grade, they never catch up. We should not be surprised to learn, then, that only (tk) percentage of black athletes earn their college degrees. And some of these, to be blunt, are of dubious quality. For every successful educated black professional athlete, who can count the hundreds of thousands of the wounded and the dead.

Our society deifies our athletic heroes because of the enormously profitable business that collegiate and professional sports have become. (When the University of North Carolina recently commissioned a sculptor to create archetypes of its student body, guess which ethnic group was selected to represent athletes?) While we cannot resolve the problems of our public schools, we must demand the strictest accountability for the education of our athletes, given their unrivaled status as role models for the black community. A few suggestions:

—Students with athletic promise should be monitored closely from elementary school to break the chain of their mis-education. If their academic skills are deficient, then their eligibility to play team sports disappears, as early, say, as the 6th grade.

—We should start with the premise that it is not the business of our colleges and universities to be a conduit for professional sports, as if they were a collective minor league and singular league. Oxford, Cambridge, and the Sorbonne are in the "business" of producing scholars, not serving as farm teams for professional sports in England and France. Because college is the minor league for the NBA, for example, and because the financial rewards for successful collegiate teams are so vast, the system of finding and retaining athletes tends to be corrupted without constant vigilance, whether by coaches, college presidents and deans, or even the athletes themselves.

One solution to this aspect of the problem is to create minor league basketball and football leagues. We could, thereby, remove this function from our colleges, and remove a source of the corruption of collegiate sports.

—Rather than to penalize coaches merely for losing, we should judge a coach's performance by the academic record of his and her athletes as well as by their won and loss columns. Coaches, and their schools, should be rewarded financially in accordance to a special index comprised of team performance in the classroom and on the playing field.

—The uses to which the huge financial rewards that accrue to the most successful college teams are put should be mandated to academic retention programs for athletes: for special tutors, compensatory educational programs, learning skills aids, etc., that would be geared toward the academic life of the athlete. Not only would such program directly affect the attrition rate of athletes, but they would also take away much of the motivation for breaking the rules, since the profits from sports would be utilized to subsidize the scholarly half of the "student athlete."

—Finally, successful professional athletes themselves should become more accountable for the education of athletes to come. While many have done so, most have shirked this social obligation. Earmarking small percentages of their incomes to foundations such as the UNCF, making TV commercials for educational purposes rather than just tennis shoes, completing their degrees before embarking upon their professional athletic careers, letting school children know that becoming a lawyer, a teacher, or a doctor does more good for our people than winning the World Series, and forming productive liaisons with scholars to enable solutions to the many ills that beset the black community—these are merely a few modest proposals.

While many of these suggestions apply to all black professionals, and not merely to black athletes, athletes and entertainers are the most glamourized figures in our society. Their rewards are enormous—as they should be—but so must be their responsibilities. For one thing is clear: athletics has become the opiate of far too many African Americans. Individual athletes come and go. Very seldom do they affect the collective state of black America, except in symbolic terms, which is, of course, important. But until our colleges and schools stop viewing young blacks as interchangeable, expendable cannon fodder in the big business wars of so-called non-professional sports, until training a student athlete's mind is only as important as training his or her body, we will continue to perpetuate a system akin to that of the Roman gladiator, sacrificing a class of people for the entertainment of the mob.

THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION
6201 College Boulevard • Overland Park, Kansas 66211-2422 • Telephone 913/339-1906

October 9, 1991

The Honorable Cardiss Collins, Chairwoman
Subcommittee on Commerce, Consumer Protection
and Competitiveness
2264 Rayburn House Office Building
Washington, D.C. 20515-1307

Dear Chairwoman Collins:

At the September 12 hearing on athletics experiences of historically black colleges and universities (HBCUs), members of the subcommittee and several witnesses raised issues concerning NCAA policies that I believe warrant further discussion. I am writing to you to provide the subcommittee with information concerning those issues and to request that this letter be included in the record of the hearing.

1. The Revenue Distribution Plan for the NCAA Division I Men's Basketball Championship.

   In 1989, a special NCAA advisory committee was appointed to review recommendations submitted by the membership and develop a plan for distributing the revenues generated by the tournament. The plan is based on the following principles: ensuring that the distribution of funds benefits the broadest possible segment of the membership; sharing the revenue equitably though not equally among all member institutions, and taking into consideration the welfare of individual student-athletes.

   In accordance with that plan, each Division I institution annually will receive $25,000 ($7.4 million total) for the enhancement of academic support programs. An additional $3 million (Needy Student-Athlete Fund) annually is allocated to assist needy student-athletes with medical expenses, travel expenses for family emergencies, the purchase of academic course supplies, and the purchase of clothing and shoes. The Association also annually spends $3.5 million to provide catastrophic insurance for all student-athletes.

   Of the $3 million allocated for the Needy Student-Athlete Fund, the Mid-Eastern Athletic Conference (MEAC) and the Southwestern Athletic Conference (SWAC), two conferences whose 17 members

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are all HBCUs, will receive a total of $162,332 and $184,209 respectively. This represents the largest sum allotted to any Division I conference.

Of the total distribution for 1990-91, the MEAC received $983,178 (an average of $109,242 per institution) and the SWAC received $936,396 (an average of $117,050 per institution).

2. "Play-in" Requirement for the NCAA Division I Men's Basketball Championship.

In 1992, the MEAC and the SWAC champions each will receive one of the 30 automatic bids to the championship.

It also is important to note that in connection with the 1991 championship, the six play-in institutions (including representatives from the SWAC and the MEAC) received the same first-round revenue allocation that was distributed to the 27 automatic qualifiers and the 34 at-large bids.

3. College Football Television Broadcasts.

The plan by which the NCAA formerly negotiated football television appearances by its members was declared illegal under the Sherman Act of 1984. Under prior contracts, the NCAA required the networks to televise a minimum number of Division I-AA games. HBCUs were often featured in those telecasts. NCAA members now make their own arrangements for televising of football games. Since 1984, the Association has had no control over which college football games are televised.

4. Thanksgiving Weekend "Penalty" for Football.

There was discussion at the hearing concerning a "penalty" imposed by the NCAA on HBCUs that played on Thanksgiving weekend. There have been no sanctions imposed on any institution. Each conference desiring automatic qualification in 1991 must identify its champions by November 23. Neither the MEAC nor the SWAC elected to identify its champion per this NCAA regulation in recent years. These conferences, therefore, do not receive automatic qualification for the Division I-AA Football Championship. This has not precluded representatives from either conference from receiving at-large berths in the championship.

A scheduling conflict was created for 1991 when the MEAC and the SWAC agreed to participate in the Heritage Bowl, which is scheduled on the same weekend as the NCAA Division I-AA championship game. Since each of these games is played on the same weekend, it is impossible for teams selected to play in the Heritage Bowl also to compete in the Division I-AA championship.

5. Competition between HBCUs and Traditional Small College Rivals.

   One of the witnesses called on the NCAA to allow an exemption in the rule that requires Division I institutions to have a "100 percent Division I schedule" to permit HBCUs or any other smaller institution to play traditional rivals. Division I-AA institutions only are required to schedule more than 50 percent of their games against Division I-A or Division I-AA members. For Division I-A institutions, there is a 60 percent requirement. The remaining games may be scheduled against anyone the institution desires to play.

I appreciate the responsible manner in which the subcommittee has addressed these important issues. Please contact me if I can provide you with any further information.

Sincerely,

Richard D. Schultz

RDS:pjb

cc: Members of the Subcommittee on Commerce,
Consumer Protection and Competitiveness

ABC RADIO NETWORKS
125 West End Avenue New York, New York 10023 (212) 887-5169

Howard Cosell

September 12, 1991

The Honorable Cardiss Collins
Chairwoman, Subcommittee on
Commerce, Consumer Protection
and Competitiveness
Washington, D.C. 20515

Dear Chairwoman Collins:

At the outset I should like to express my appreciation for your invitation to testify before your committee on the subject of the NCAA control of intercollegiate athletes, and within that subject, specific reference to the "student athlete."

Unfortunately as you know, my doctors have forbidden me to travel which explains why I could not accept your kind invitation. I think you know that I have undergone a battle with cancer and while my prospects for recovery seem to be excellent, travel is out of the question.

I do not think at this stage of my life that I have to detail my qualifications on the subject at hand. The documentary that I produced entitled, Grambling College: 100 Yards to Victory," was an award winning show which focused on the "winningest" football coach in history, Eddie Robinson. While I agree that the issue of student athletes is non-partisan and non-racial, this hearing is centered upon historically black colleges and universities and the President is hosting a White House Conference on Education which focuses on black colleges and universities.

Nonetheless these are points I should like to make:

1. I believe the question of the student athlete is non-partisan and non-racial. It transcends these matters.

2. I believe the student athlete is not properly prepared for the life ahead.

3. I believe that his development of marketing skills for the life ahead is at the very least suspect.

4. I believe that the averages on graduation rates of the student athletes are deceptive. Especially when it comes to the big money sports of football and basketball.

5. I believe that education should be the keynote with regard to student athletes and while it may not be presently relevant the University Athletic Association spearheaded by John Brademas, former Congressman and President of New York University, takes the right tack.

6. I support the efforts of Senator Bill Bradley and Congressman Tom McMillan, a member of your subcommittee, with regard to efforts at improving the lot of the student athlete.

7. I believe that your commitment with its greater emphasis on education is on the right track and is doing invaluable work, and I am proud to have had the opportunity to reflect my views in general on the subject of the student athlete.

Sincerely,

Howard Cosell

Howard Cosell

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